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ABSTRACT

A facilitator's manual for a surrogate parent training program, which focuses on the concepts, attitudes, and skills necessary to successfully represent handicapped children in educational decision making processes, is provided. It is explained that the training program is divided into five sections comprising approximately 40 to 50 hours of instruction. Section 1 identifies state laws including the main features and provision of each in relation to the education of handicapped children. In Section 2 federal laws are described which mandate special education. Surrogate parenting is the focus of Section 3, which examines the responsibilities of a surrogate parent in representing a child in the educational decision making process. Section 4 discusses the categories of exceptionality and the educational programing options available in the schools. The final section considers due process, mediation, hearing, and appeal procedures within the state, and the role of the surrogate parent in the process. Each component contains objectives, activities, and suggested instructional and media materials for use by either trainer or participant. Bibliographies on due process and materials of interest to parents, as well as lists of agencies involved with due process and a program evaluation form are appended. (PHR)

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SURROGATE PARENT TRAINING PROGRAM

FACILITATOR'S MANUAL

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Hartford

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TABLE OF CONTENTS

Page

PROGRAM OVERVIEW

Introduction 2
Program Components 3
Program Objectives 4

SECTION I **STATE LAW**

Objectives, Activities, Materials 7
Expanded Activities 8
Suggested Readings for Section II (Book of Readings) 8
Participant Worksheet #1 9
State Law (insert)
State Regulations and Policy Statements (insert)
State Policy re Confidentiality (insert)

SECTION II **PUBLIC LAW 94-142**

Objectives, Activities, Materials 11
Expanded Activities 12
Suggested Readings for Section III (Book of Readings) 12
Participant Worksheet #2 13
Participant Worksheet #3 14
A Primer on Due Process 15
Additional Resources 22

SECTION III **SURROGATE PARENT**

Objectives, Activities, Materials 24
Expanded Activities 25
Suggested Readings for Section IV (Book of Readings) 25
Participant Worksheet #4 26
Transparency Samples #1 -- #8 27
Primer on Due Process, Chapter 4, Parent Surrogate 35
Connecticut's Surrogate Parent Program 43
State Provisions for Surrogate Parent (insert)

Page

SECTION IV EXCEPTIONAL CHILDREN AND EDUCATIONAL PROGRAMMING

Objectives, Activities, Materials.................................. 67
Expanded Activities.. 68
Suggested Readings for Section V (Book of Readings)............ 68
Participant Worksheet #5.. 69
Participant Worksheet #6.. 70
Transparency Sample - Cascade of Services, #9................. 71

SECTION V DUE PROCESS PROCEDURES

Objectives, Activities, Materials.................................. 73
Expanded Activities.. 74
Participant Worksheet #7.. 76
Role Descriptions, Activity #2.................................. 77
Role Descriptions, Activity #3.................................. 78
Role Descriptions, Activity #4.................................. 79
State Due Process Procedures (insert)
Primer on Due Process, Sec. 1 and 2............................. 80
Additional Resources.. 112

APPENDIX A

Bibliography on Due Process....................................... 114

APPENDIX B

Bibliography for Parents.. 120

APPENDIX C

Agencies Involved with Due Process............................... 134

APPENDIX D

Evaluation Form.. 137

PROGRAM OVERVIEW

INTRODUCTION

The surrogate parent training program focuses on the concepts, skills, and attitudes necessary for an individual to successfully represent exceptional children in the educational decision making process. Specifically, the program addresses the issues of state and federal laws, the nature of exceptionalities, special education programming, responsibilities of a surrogate parent, and due process procedures.

The generic design of the training program allows for the use of local policies and state laws. Each facilitator is free to use the manual in a manner that best meets the needs of the participants. One possible method of implementation is the use of various specialists or consultants with expertise in each section. The objectives and suggested activities are intended to be a guide to the content of the training sessions with some process techniques and suggested activities.

The training program is divided into five sections, comprising approximately 40-50 hours of instruction.

Section 1 State laws identify the main features and provisions of legislation providing for the education of handicapped children.

Section 2 Federal laws focus on mandated federal legislation regarding special education.

Section 3 Surrogate Parent focuses on the responsibilities of a surrogate parent in representing a child in the educational decision making process.

Section 4 Exceptional Children and Programming examines the various categories of exceptionality and educational programming options available within the schools.

Section 5 State Due Process focuses on due process, mediation, hearing, and appeal procedures within the state, and the role of the surrogate parent in this process.

It is hoped that the training program will be of assistance to local and state programs in preparing individuals to be and serve as surrogate parents.

PROGRAM COMPONENTS

The Surrogate Parent Training Program contains the following components: objectives, activities, and suggested instructional and media materials such as transparencies, filmstrips/cassettes, video tapes, readings and prepared worksheets than can be used by the trainer and participants.

The Book of Readings contains articles to be used as preparatory and supplementary information for each workshop session.

FACILITATOR'S OBJECTIVES

Section 1 State Law

1. To define the concept of special education
2. To define the concept of exceptional children
3. To describe the identification and diagnostic process
4. To describe required programs and curriculum provisions
5. To define the state regulation for confidentiality of records, evaluation of programs, reimbursement procedures and parents' rights

Section 2 Federal Law

1. To provide an overview of P.L. 94-142 provisions
2. To understand the purpose of the law and the definitions
3. To be aware of the specific rights awarded to parent and child
4. To describe individual protections
5. To have a general understanding of the accountability factors
6. To define the due process provisions
7. To discuss the role of the parent in the due process procedure

Section 3 Surrogate Parent

1. To define the qualifications of a surrogate parent
2. To delineate the role and responsibilities of a surrogate parent
3. To define the protections and rights of a surrogate parent
4. To be aware of the selection and appointment procedures of an individual as a surrogate
5. To discuss the essential elements of knowledge and training needed as a surrogate

6. To define clearly the procedure for the nomination of a child for a surrogate and the appointment of a surrogate parent to a child

Section 4

Exceptional Children and Programming

1. To describe the classifications of special education students
2. To discuss the characteristics of exceptional children
3. To define the role of labels in program provisions for exceptional children within the state
4. To describe various instructional models that attempt to provide educational programming for exceptional children
5. To define the role and relationships of personnel within each model

Section 5

Due Process

1. To define the concept of due process
2. To define the due process provisions within the state
3. To describe the local planning and placement procedure for each exceptional child
4. To define the mediation process and its provisions for parent participation
5. To define the hearing and appeal procedures provided by the state law and the role of parents within this process
6. To delineate the role of the surrogate parent in the due process provisions within the state

SECTION 1

STATE LAW

SECTION 1 STATE LAW

OBJECTIVES	ACTIVITIES	MATERIALS
1. Define concept of special education	1. Lecture	1. *State law concerning special education
2. Define concept of exceptional children	2. Small group discussion	2. *Regulations and policy statements re special education
3. Describe the identification and diagnosis process	3. Formulation of questions	3. *State policy re confidentiality
4. Be aware of required programs and curriculum provisions	4. Large group discussion	4. Your School Records Children's Defense Fund Washington, DC (Book of Readings)
5. Define state regulations re: confidentiality evaluation of programs reimbursement procedures parents' rights		

*Insert state provisions

EXPANDED ACTIVITIES

ACTIVITY #1

1. Overview of State Law . . . . use of lecture, audiovisual materials or overhead transparencies
2. Form small groups of 5 or 6 to formulate questions/concerns which the group would like answered. (Use summary sheet #1 for small group session)
3. Each group is to present two questions from the list during an open discussion session
4. Each group's list of questions will be collected and responded to in writing

SUGGESTED READING FOR SECTION 2

(Book of Readings)

A Primer on Due Process: Education Decisions for Handicapped Children

Revolutionary Legislation for a Bicentennial Year

Public Law 94-142

PARTICIPANT WORKSHEET #1

STATE LAW: SUMMARY SMALL GROUP DISCUSSIONS

List those concerns/questions regarding your State Law for Exceptional Children which the group would like clarified or answered on this sheet. This sheet will be collected at the end of the summary session.

1. ____
____
____
____

2. ____
____
____
____

3. ____
____
____
____

4. ____
____
____
____

5. ____
____
____
____

SECTION II

FEDERAL LAW

PUBLIC LAW 94-142

16

SECTION II PUBLIC LAW 94-142

OBJECTIVES

1. Provide an overview of PL 94-142
2. Understand the purposes of the law and the definitions
3. Be aware of rights of parent and child
4. Describe individual protections
5. Define accountability factors
6. Define due process provisions
7. Role of parent in due process
8. Describe individual educational programs

ACTIVITIES

1. View filmstrip and tapes
2. Small groups
3. Large group discussion

MATERIALS

1. CEC 94-142 Filmstrip #1 and #3
2. A Primer on Due Process

Book of Readings

1. Revolutionary Legislation for a Bicentennial Year
2. Public Law 94-142

Additional Resources

1. Guide to Educational Hearing Procedures
2. Due Process and Exceptional Child Guide for Parents
3. NASDSE: An Analysis of 94-142

EXPANDED ACTIVITIES

ACTIVITY 1

1. View filmstrip #1 (CEC, PL 94-142)
2. Form small groups of 5 or 6 to formulate questions/concerns regarding 94-142 that the group would like answered. (Summary sheet #2)
3. Form large groups and submit 3 questions from the list for open discussion

ACTIVITY 2

1. View filmstrip #3 (CEC, PL 94-142)
2. Form small groups of 5 or 6 and formulate problems/implications for implementation of 94-142 for parents. (Summary sheet #3)
3. Form large groups and address the most pressing problem from each group
4. Each group's list will be collected and responded to by the facilitator

SUGGESTED READING FOR SECTION III
(Book of Readings)

A Primer on Due Process, Section 4, The Parent Surrogate: One Approach

Connecticut's Surrogate Parent Program

*State Provisions for Surrogate Parent

*Insert

PARTICIPANT WORKSHEET #2

PL 94-142: SUMMARY SMALL GROUP DISCUSSIONS

List those questions/concerns regarding PL 94-142 which the group would like clarified. This sheet will be collected at the end of the summary session.

1. ______________________________

2. ______________________________

3. ______________________________

4. ______________________________

5. ______________________________

PARTICIPANT WORKSHEET #3

PL 94-142: SUMMARY SMALL GROUP DISCUSSIONS

List those problems/implementation implications of 94-142 for parents. Prioritize them according to (1) the most pressing, (5) the least concern. This sheet will be collected at the end of the summary session.

1. ______________________________

2. ______________________________

3. ______________________________

4. ______________________________

5. ______________________________

A Primer on Due Process: Education Decisions for Handicapped Children

Alan Abeson
Nancy Bolick
Jayne Hass

Extensive litigation and legislation have resulted in mandates that state and local education agencies guarantee due process protection to handicapped children in all matters pertaining to their identification, evaluation and educational placement. This article presents excerpts from a new CEC publication which contains an approach to meeting those requirements. The background of due process, sequential procedures required, structure and operation of hearings, the surrogate parent and sample forms are all included in the full publication.

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> "Children's rights cannot be secured until some particular institution has recognized them and assumed responsibility for enforcing them. In the past, adult institutions have not performed this function partly...because it was thought children had few rights to secure. Unfortunately, the institutions designed specifically for children also have failed to accomplish this aim, largely because they were established to safeguard interests, not to enforce rights, on the assumption that the former could be done without the latter." (Rodham, 1973, p. 506)

Exclusion and the Right to an Education

With the conflict between safeguarding interests and assuring individual rights as a backdrop, the rights of children in many areas of American life are being examined and clarified, often through judicial intervention. Nowhere is this examination more intense than in public education. In this decade, questions of "rights" for public school students have been raised in relation to freedom of expression, personal rights such as hair length and dress regulations, marriage and pregnancy, police intervention, corporal punishment, discipline, and confidentiality of records. While all of these have an impact on handicapped children, none is more pervasive than the right to due process which governs decisions regarding identification, evaluation, and educational placement. Much litigation has been concerned with handicapped children seeking affirmation of their right to an education and the protection of due process of law. This wave of litigation is evidence of the way in which public schools in the past often ignored appropriate legal processes in denying these children their rights. The public schools often based such action upon law which was interpreted to give them the right to deny the opportunity of a public education to some children, either on a short term or permanent basis.

Today, it is a matter of public policy that the purpose of the public school is to provide every child with the opportunity for a free, public, and appropriate education. This policy makes it clear that to solve the problems a child is having in school by excluding him is not to solve the problems of the child, but of the school. It is unreasonable for the public schools to expel a child because of a behavioral problem (more popularly known as a discipline problem), an inability to learn, or any handicapping condition. Regardless of the types of exclusion that have been used and regardless of where they have occurred, the common denominator is that such practices have usually occurred with little or no regard for due process of law.

Placement in the Least Restrictive Alternative Educational Setting

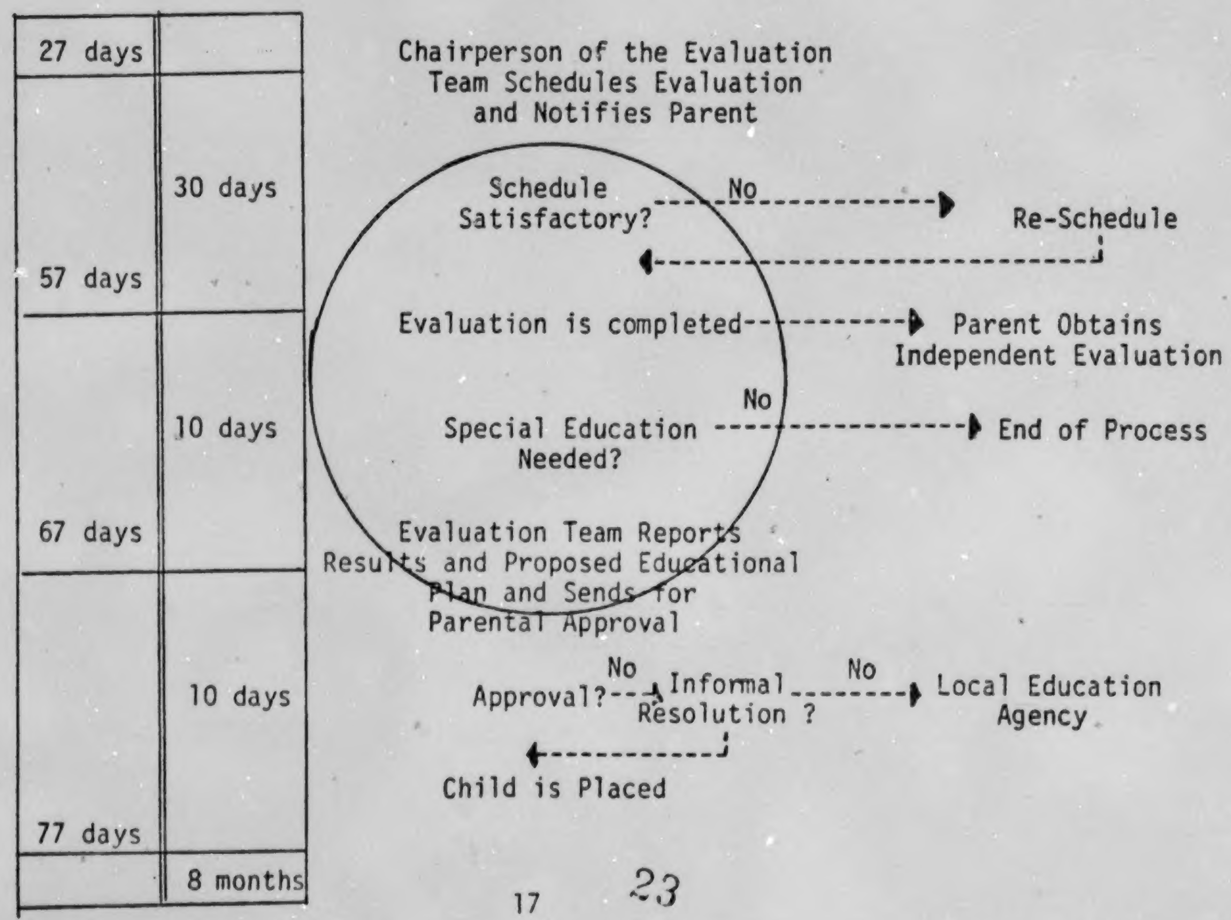
Beyond the situation with excluded children is the requirement that handicapped children be placed for educational purposes in the least restrictive alternative setting. Public Law 93-380, the Education Amendment of 1974, focused specifically on this programing thrust by requiring that a state, in order to retain its eligibility to receive federal funds for the education of the handicapped, must develop a plan to be approved by the US Commissioner of Education, that will contain:

> (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (Public Law 93-380, Title VIB, Sec. 612(d)(13B))

The relationship between due process and placement in the least restrictive alternative educational setting is extremely close. Due process establishes the procedures that require the schools to consider all program alternatives and to select that setting which is least restrictive. The basis of this entire concept is the existence of a variety of options or program settings that can be used to provide education to handicapped children depending on their individual needs.

Public Law 93-380 mandates the closeness by also requiring the states in their plans to:

> (13) provide procedures for insuring that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement of handicapped children including, but not limited to (A)(i) prior notice to parents or guardians of the child when the local or State educational agency proposes to change the educational placement of the child,(ii) an opportunity for the parents or guardians to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child,(iii) procedures to protect the rights of the child when the parents or guardians are not known, unavailable, or the child is a ward of the State including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardians, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal. (Public Law 93-380, Title VIB, Sec.612(d)(13A))


27 days
30 days
57 days
10 days
67 days
10 days
77 days
8 months
Chairperson of the Evaluation Team Schedules Evaluation and Notifies Parent
Schedule Satisfactory?
No
Re-Schedule
Evaluation is completed
Parent Obtains Independent Evaluation
No
Special Education Needed?
End of Process
Evaluation Team Reports Results and Proposed Educational Plan and Sends for Parental Approval
Approval?
No
Informal Resolution ?
No
Local Education Agency
Child is Placed

Due Process, Procedures, and Sequence

Providing a child with an appropriate education is of equal interest and importance to the child, the family, and the schools. To insure that education, it is imperative that, when initial educational evaluation and placement decisions or changes in existing placement are being considered, due process protections must be provided to the child, the family, and the schools. All of these parties will benefit from adherence to well developed educational practices and the elements of due process. When appropriate decisions about a child's education are made in a forthright manner, these parties will be in harmony and the challenges inherent in due process need not be involved. Under other less positive circumstances, however, conflict will emerge and require resolution. Hearings conducted by impartial officers serving as designees of the chief state school officer will be convened, not to place blame or determine right or wrong, but to achieve resolution of the conflict and define an appropriate education program for the child. While the procedures presented may appear complex and perhaps circuitous, it must be emphasized that none of the alternative routes to challenge need be used if all parties agree on the educational needs of the child and the appropriateness of the program proposed by the schools.

A review of judicial orders, existing state and federal legislation, and the work of legal analysts suggests that the following procedures must be provided in order to meet minimum due process standards in identification, evaluation, and educational placement of handicapped children:

1. Written notification before evaluation. In addition, parents always have the right to an interpreter/translator if their primary language is not English.
2. Written notification before change in educational placement.
3. Periodic review of educational placement.
4. Opportunity for an impartial hearing including the right to:
    - Receive timely and specific notice of such hearing.
    - Review all records.
    - Obtain an independent evaluation.
    - Be represented by counsel.
    - Cross examine.
    - Bring witnesses.
    - Present evidence.
    - Receive a complete and accurate record of proceedings.
    - Appeal the decision.
5. Assignment of a surrogate parent for children when:
    - The child's parent or guardian is not known.
    - The child's parents are unavailable.
    - The child is a ward of the state.

Typically, these procedures should be initiated when there is reason to believe that a preschool or school age child is in need of special education services and the child becomes a candidate for individual evaluation procedures including informal assessment or observation and formal testing. Then written permission must be obtained by the local education agency from the parents before the process can begin. This shall also apply when periodic reevaluation is planned.

Prior to the performance of an evaluation the parent shall be provided with both written and oral notices of intent to conduct an evaluation. The written notice shall be in the primary language of the home and in English and will be delivered to the parent during a conference or mailed by certified mail. Oral interpretation shall always be given in the primary language of the home. If the primary language of the home is other than English and a member of the household requests that English also be used, then a second oral interpretation shall be given in English. When necessary, arrangements shall be made to effectuate communication with hearing and visually handicapped parents.

The proposed procedures include a provision that no later than 8 calendar months after a child's educational status has been changed and during each calendar year thereafter, so long as the child continues to receive special services, the local education agency should conduct a review of the child's program to evaluate its effectiveness in meeting the educational needs of the child. At least 5 days prior to each review, the parent should be notified in writing, in the primary language of the home and in English, and orally in the primary language of the home, that the review is scheduled. The notice should also indicate the following information:

1. The date, time, and place of the review.
2. An invitation to the parents to participate in the review.
3. A description of the procedures to be used in the review.
4. A statement that the parents will receive the findings and recommendations of the review team within 10 days after completion of the review.
5. A reiteration of the procedures and rights first encountered at the initial evaluation.

Hearing Procedures and Officers

Public policymakers, whether legislators or judges at both the state and federal level, have made clear that decisions about identifying, evaluating, and placing exceptional children in education programs must be governed by due process safeguards. Implicit in that requirement is that whenever a decision is contested to the point that a hearing is to be convened, the hearing must be conducted in an impartial manner by an impartial hearing officer or a neutral review panel.

Specifying criteria which can be used for the selection of effective hearing officers in all settings is an impossible task. There are, however, a few general rules which can be made. Individuals selected should:

1. Not be involved in the decisions already made about a child regarding identification, evaluation, placement, or review.
2. Possess special knowledge, acquired through training and/or experience, about the nature and needs of exceptional children. An awareness and understanding of the types and quality of programs that are available at any time for exceptional children is essential.

3. Be sufficiently open minded so that they will not be predisposed toward any decisions that they must make or review. However, they must also be capable of making decisions.

4. Possess the ability to objectively, sensitively, and directly solicit and evaluate both oral and written information that needs to be considered in relation to decision making.
5. Have sufficient strength to effectively structure and operate hearings in conformity with standard requirements and limits and to encourage the participation of the principal parties and their representatives.
6. Be sufficiently free of other obligations to provide sufficient priority to their hearing officer responsibilities. They must be able to meet the required timelines for conducting hearings and reporting written decisions.
7. Be aware that the role of the hearing officer is unique and relatively new, requiring constant evaluation of the processes, their own behavior, and the behavior of all the principals involved for purposes of continuously trying to improve the effectiveness of the hearing process.

The Parent Surrogate

The specific due process procedures of Public Law 93-380 secure a child's right, through representation by his parents or guardian, to the opportunity for full participation in the total educational identification, evaluation, and placement process. The assumption is that the parents or guardians will be available and willing to participate in this decision making process, fully accepting the responsibility of representing the child's best interests.

There are, however, children who lake this kind of personal representation, protective legal doctrines notwithstanding. They are the children whose parents or guardians are unknown or unavailable, or children who are wards of the state. The rights of these children are not safeguarded if they are without an advocate to act for them. Recognizing this, Public Law 93-380 provides for the appointment of a "parent surrogate," i.e., an individual appointed to safeguard a child's rights in the specific instance of educational decision making-identification, evaluating and placement.

The task of locating individuals to act as surrogates could be done by a state level standing board or advisory committee established to advise and work with the state as it delivers services to handicapped children. Members of this type of board are concerned with quality education and generally include parents, teachers, professionals involved with the education and treatment of children with special needs, and other community members who are interested in the education of handicapped children. Such a group has channels of communication open to local professional organizations concerned with the handicapped (Association for Retarded Citizens for example) and to individuals such as parents of handicapped and nonhandicapped children, pediatricians, or attorneys sensitive to the needs of children. These are individuals who may be considered for selection as surrogates. It is recommended that any pool of surrogates not include state or local education employees. Because of their employment, they may be unable to act as impartially as desired. A surrogate must have the child's best interests constantly in mind, and if he is employed by a local or state system concerned with handicapped children, he is placed in the position of serving two masters.

Once the state board has identified persons it feels would be effective surrogates, it will send their names to the state education agency, which has the responsibility of assigning a surrogate to a specific child. Individuals should be located in all parts of the state so that every child will have easy access to his/her surrogate. The state agency should develop a training program, devise a system of compensation, determine the rules and regulations governing the employment of a surrogate, and develop plans to disseminate information about the program.

Implications for Public Education Agencies

It is important for public educators to understand that implementing dur process may produce many positive benefits. The availability of due process procedures, particularly hearings, provides the parent with the opportunity for holding the professional accountable, a desire of many professionals. In this context, the procedures of due process that require parent-school communication create the opportunity for school personnel to be open and honest with the ultimate consumers of their services. These requirements will also enable educators to adopt an additional procedure that has long been a goal-- the provision of individually designed education programs. Individual plans provide the basis for intelligent assessment of a child's progress in relation to the objectives initially established. The concept of periodic review, also a requirement of total due process protection, conforms with good educational programing as well.

Finally, educators must be aware that adherence to due process procedures will in no way reduce their professional responsibility or authority. It can provide them with the leverage to do that which must be their goal-- to act openly and in the best interests of the children they serve.

Reference

Rodham, H. Children under the law. Harvard Education Review, 1973, 43, 487-514

ADDITIONAL RESOURCES

An Analysis of PL 94-142

NASDSE, Inc.
1201 16th St., NW
Suite 610E
Washington, DC 20036

Guide to Educational Hearing Procedures for Handicapped Children

Special Committee on Mental Retardation and the Law of the Maryland
Bar Association, 1975
905 Keyser Bldg.
Baltimore, MD 21202

Due Process and the Exceptional Child
A Guide for Parents
$25 per 100 copies
Individual copies are free

Education Law Center, Inc.
2100 Lewis Tower Building
225 South 15th St.
Philadelphia, PA 19102

Public Law 94-142
$50
Filmstrips and Tapes
Council for Exceptional Children
1920 Association Dr.
Reston, VA 22091

SECTION III

SURROGATE PARENT

SECTION III SURROGATE PARENT

OBJECTIVES	ACTIVITIES	MATERIALS
1. Define surrogate parent qualifications	1. View guided overhead transparencies	1. Primer on Due Process Sec. 4 Parent Surrogate
2. Delineate role and responsibilities	2. Small groups	2. Connecticut's Surrogate Parent Program
3. Define protections and rights	3. Large group discussion	3. * State Provisions for Surrogate
4. Describe selection and appointment procedure		
5. Discuss essential elements of training needed		
6. Define procedure for nomination of a child and appointment of surrogate to child		

*Insert State provisions

EXPANDED ACTIVITIES

ACTIVITY 1

1. View overhead transparencies on Connecticut's Surrogate Parent Program
2. Present local policies regarding surrogate parent provisions
3. Form small groups of 4 or 5 and compare state provisions with Connecticut (Worksheet #4)
4. Convene large group and share the main differences among programs, state needs to be addressed and suggestions for implementation
5. Each group's summary sheet will be collected, collated and returned to each member in writing

SUGGESTED READING FOR SECTION IV
EXCEPTIONAL CHILDREN AND EDUCATIONAL PROGRAMS

Book of Readings

"Children's Rights, Normalization, and Organizational Patterns of Institutions"

"Manual on Terminology and Classification in Mental Retardation"

"Keeping Exceptional Children in Regular Classes"

"In-School Screening of Children with Emotional Handicaps"

"Continuity and Unity in Special Education"

"Behavioral Characteristics of Children with Special Learning Disabilities"

"Background and Definitions of Learning Disabilities"

"The Learning Disabilities Specialist: Role and Responsibilities"

"Reaching the Unreachable Child"

PARTICIPANT WORKSHEET #4

SURROGATE PARENT: COMPARISON OF STATE PROVISIONS WITH CONNECTICUT

Note state provisions in appropriate boxes. List areas that need attention in column 3

Connecticut Surrogate Parent	State Provisions	Areas to Address
DEFINITIONS surrogate parent unavailable unknown educational decision making process		
QUALIFICATIONS employment no vested interest knowledge		
SELECTION/APPOINTMENT interviews, recommendations who appoints?		
RESPONSIBILITIES knowledge of child access to records educational prescription initiate mediation, hearing appeal, if necessary		
PROTECTIONS right to records liability legal protections		
TRAINING state law, federal law exceptionalities & programming due process procedures		
PROCEDURES nomination of child determination of eligibility appointment of surrogate		

TRANSPARENCY SAMPLE #1

THE ROLE OF A SURROGATE PARENT!

. . . . . TO PROTECT RIGHTS OF A CHILD WHEN PARENTS OR GUARDIANS ARE NOT KNOWN, UNAVAILABLE, OR CHILD IS A WARD OF THE STATE.

. . . . ACT AS A CHILD'S ADVOCATE IN THE EDUCATIONAL DECISION MAKING PROCESS.

TRANSPARENCY SAMPLE #2

AN
UNAVAILABLE
PARENT
OR
GUARDIAN
IS

. . . . COMMITTED TO A MENTAL INSTITUTION.

. . . . INCARCERATED.

. . . . OR OTHERWISE UNABLE TO ACT AS CHILD'S ADVOCATE IN EDUCATIONAL DECISION MAKING PROCESS.

TRANSPARENCY SAMPLE #3

RESPONSIBILITIES OF A SURROGATE TO

REPRESENT THE

HANDICAPPED CHILD

↓

TO 21 YEARS OF AGE

IN ALL ASPECTS OF THE

EDUCATIONAL DECISION MAKING PROCESS

↙	↘
IDENTIFICATION	HEARING
EVALUATION	MEDIATION
PLACEMENT	APPEAL

TRANSPARENCY SAMPLE #4

QUALIFICATIONS OF SURROGATE

. . . . NOT AN EMPLOYEE OF STATE OR LOCAL EDUCATIONAL AGENCY INVOLVED IN CARE OR EDUCATION OF CHILDREN.

. . . . NO OTHER VESTED INTEREST.

. . . . KNOWLEDGEABLE ABOUT EDUCATIONAL SYSTEM, SPECIAL EDUCATION LAWS, AND LEGAL RIGHTS OF THE CHILD.

TRANSPARENCY SAMPLE #5

RIGHTS OF AND PROTECTIONS FOR CONNECTICUT'S SURROGATE PARENT

. . . . RIGHT OF ACCESS TO ALL RECORDS CONCERNING CHILD (SECTION 10-209)

. . . . NOT LIABLE FOR ANY CIVIL DAMAGES RESULTING FROM ACTS OR OMISSIONS WHICH CONSTITUTE ORDINARY NEGLIGENCE

. . . . SAME PROTECTIONS AS PROVIDED FOR TEACHERS AND NURSES IN REPORTING CHILD ABUSE (SECTION 10-154)

MAJOR RESPONSIBILITIES OF SURROGATE PARENT

. . . . REPRESENT THE CHILD

. . . . BE FAMILIAR WITH CHILD, RECORDS, EDUCATIONAL NEEDS, CULTURAL AND LANGUAGE BACKGROUND

. . . . RESPECT CONFIDENTIALITY

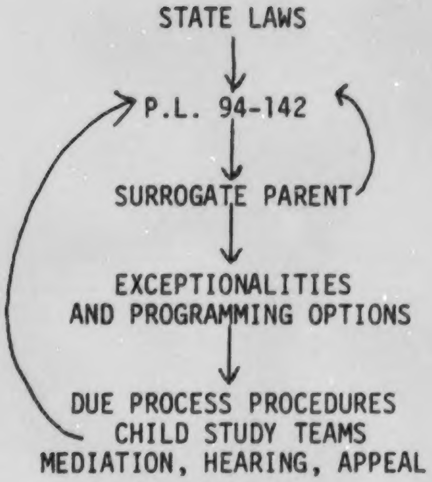
. . . . REVIEW EDUCATIONAL PRESCRIPTION AND PROGRAM

. . . . INITIATE MEDIATION, HEARING, APPEAL PROCEDURES WHEN NECESSARY

. . . . SEEK LEGAL ASSISTANCE

TRANSPARENCY SAMPLE #7

TRAINING PROGRAM OVERVIEW



STATE LAWS

P.L. 94-142

SURROGATE PARENT

EXCEPTIONALITIES
AND PROGRAMMING OPTIONS

DUE PROCESS PROCEDURES
CHILD STUDY TEAMS
MEDIATION, HEARING, APPEAL

TRANSPARENCY SAMPLE #8

Cumulative Time	Maximum Time for Each Step	PROCEDURE
10 days	10 days	NOMINATION OF A CHILD -- WRITTEN REQUEST TO AGENCY AGENCY RECEIVES REQUEST -- SEND COPIES TO SEA, STATE ADVISORY COUNCIL AND APPROPRIATE OFFICER AGENCY INVESTIGATES UNABLE TO LOCATE PARENT --- PARENT LOCATED, REQUEST IS TERMINATED
40 days	30 days	AGENCY REQUESTS SEA TO REVIEW THE CASE EVIDENCE IS WEIGHED -- IF CHILD MEETS THE CRITERIA
45 days	5 days	SURROGATE PARENT ASSIGNED (RECOMMENDATION) APPOINTMENT REQUESTED FROM JUVENILE COURT
90 days	45 days	SURROGATE PARENT APPOINTED BY JUVENILE COURT

THE PARENT SURROGATE: ONE APPROACH

> The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents. (Principle 7, United Nations General Assembly Resolution, 1959)

Legal doctrines have developed in this country to protect the person and rights of the child. The legal status of minor is imposed on all children below an age varying from 18 to 21 in different states. This expresses an official, irrefutable presumption that persons so young are too immature physically, emotionally, intellectually, and socially to deal with their life situations themselves.

This concept is echoed in a second protective doctrine in American law which recognizes the legal disabilities imposed on a minor. This doctrine supplies a legal remedy in the form of a guardian of the person of the child. The guardian is vested with powers and duties to furnish the child responsible representation so that his personal rights can become functionally effective in his everyday life situations. Two major types of guardians are recognized by law: the natural guardian (the child's own parents or adoptive parents) and the legal guardian. Ideally, a legal guardian isappointed for a minor child whenever he is without proper guardianship from his parents. In this way the child's person and legal rights will be continuously in competent hands identified with his interests and welfare. A judicial process is used to provide a child with a legal guardian so that the exercise of authority and control by the legal guardian over the person and rights of the child will always be accountable at law (Weisman, 1973).

Public Law 93-380, the Education Amendments of 1974, contains many provisions and safeguards that attempt to make the rights expressed in the United Nation's Principle 7 a reality for all American children, including the handicapped. The specific due process procedures of Public Law 93-380 secure a child's right, through representation by his parents or guardian, to the opportunity for full participation in the total educational identification, evaluation, and placement process. The assumption is that the parents or guardians will be available and willing to participate in this decision making process, fully accepting the responsibility of representing the child's best interests.

There are, however, children who lack this kind of personal representation, protective legal doctrines notwithstanding. They are the children whose parents or guardians are unknown or unavailable, or children who are wards of the state. The rights of these children are not safeguarded if they are without an advocate to act for them. Recognizing this, Public Law 93-380 provides for the appointment of a "parent surrogate," i.e., an individual appointed to safeguard a child's rights in the specific instance of educational decision making -- identification, evaluation and placement.

CHILDREN IN NEED OF A SURROGATE

Although the law, through its doctrines of minority and guardianship, has evidenced a basic commitment to children, there remain many who have the protection of neither parent nor guardian with the legal capacity to represent them. This is frequently the case with a child whose parents die or are otherwise unable to provide a home for him. Often such a child will go to live with aunts or uncles or older siblings in an extended family situation where he in essence becomes a member of another household. In situations where families assume responsibility for one of their own, there may be no court appointed guardian, resulting in an informal arrangement that leaves the child without a formally declared legal representative.

When the extended family is not a practical alternative, an increasingly frequent situation as our society becomes more mobile and the nuclear family becomes physically and emotionally isolated, the state steps in with protective strategies and assumes what was once a family responsibility. The state may impose guardianship on a child or arrange for legal adoption, two options which could provide a legal representative for the child in the form of either one person or adoptive parents. The child's legal representative takes on all parental responsibilities. Other arrangements made by the state provide a home and services for a child but do not give one person legal guardianship status over him. This situation arises when the child is made a ward of the state.

A 1972 Massachusetts law sums up the prevailing attitude:

> It is hereby declared to be the policy of the commonwealth to assure every child a fair and full opportunity to reach his full potential by providing and encouraging services which strengthen family life and support families in their essential function of nurture for a child's physical, social, educational, moral, and spiritual development. Every child shall be entitled to the full protection of the commonwealth. In the absence or inability of parents to provide care and protection for their children, it shall be the responsibility of the commonwealth to assure substitute residential care and protection for every child. (Massachuestts Law, Chapter 785, 1972)

When a child becomes a ward of the state he is generally assigned to a particular state administrative agency. For example, a child whose parents are unable to provide a suitable home due to a temporary illness of one or both parents will be made a ward of the state social services department and placed in a foster home, with the long range intention that he will return to his parents' home when the current crisis has passed. The parents have relinquished custody for the interim, and although the foster parents provide a home and supervise the day to day life of the child, they are not his legal guardians. The child is in fact a ward of the social services department and his needs are attended to by the social worker and foster parents, both agents of the department. He is, however, without an independent advocate, for no court has vested the duties and responsibilities of guardianship in one individual. This, then, is a child in need of a surrogate.

Other children falling into the same legal gap are confined to institutions, detention homes, or other state facilities. They too lack a personal advocate. Frequently a state official becomes the guardian of such a child, but to conceptualize the quality of guardianship that can be exercised one must only take a look at a typical statute. In Michigan, for example, "the commissioner of revenue shall ex officio be the public guardian of every patient admitted to an institution until he is discharged therefrom" (Michigan Statutes, Title 14, Sec. 14.811(1)). Given this huge responsibility, one can only wonder how much time a state official can spend working for the rights of all the children under his jurisdiction. The parent surrogate concept found in Public Law 93-380 is intended to fill this gap for children, but in one specific instance only -- the educational decision making process. It extends the state's protective strategies role and assures that all children, including the handicapped, are guaranteed complete due process in educational decision making.

MATCHING A CHILD WITH A SURROGATE

Under the procedures proposed here, when it is determined that a child is a potential candidate for special education services, the parents or guardian must be informed that an evaluation is being considered. School personnel or others involved in the education or treatment of children (e.g., an employee of a residential school or hospital, a physician, or a judicial officer) may feel that a particular child is in need of special education services. To begin the evaluation process, the local education agency, informed of the need, must secure written permission from the parents or guardian. If the permission is not forthcoming and there is reason to suspect that this is due to the unavailability of the parents or guardian, the local education agency must make written inquiry to the adult in charge of the child's place of residence, as well as to the parents or guardian at their last known address. If these efforts find that the child is without a parent or guardian, or if one of the persons initiating the request knows that they are unavailable, then a request for a surrogate will be filed with the child's local education agency (Form 10, Request for Assignment of a Surrogate Parent). Copies of the request should be sent to the state education agency and perhaps a state standing board or advisory committee on the handicapped.

After a local education agency receives a request for the assignment of a surrogate, it must in turn request the state education agency, through the chief state school officer or his designee, to determine if the child in question is in need of a surrogate. It is suggested that those nominated as hearing officers fill this role, but acting as impartial agents rather than in their capacity as hearing officers. In reaching a decision, all available information, such as the child's records, the documented evidence of attempts to contact the parents or guardian, and court records outlining previous legal action concerning the child's status, will be weighed. This study must take place within 30 days of the local agency's request, after which time notice of the decision will be sent to the local education agency, the state education agency, and the state board.

If the recommendation is that the child is in need of a surrogate, the state education agency must assign one to the child within 5 days after receiving notice. Once the assignment is made, the surrogate will be responsible for representing the child, just as the parents or guardian would, through the complete decision making process. The responsibilities extend to the appeals procedure as well, if that occurs, and to at least the first review of the placement. The rights of the child are respected throughout this entire process, and it is important to remember that the surrogate assignment is always contingent on the child's acceptance of him. The child reserves the right to request a change of surrogate at any step along the way.

THE PARENT SURROGATE

The task of locating individuals to act as surrogates could be done by a state level standing board or advisory committee established to advise and work with the state as it delivers services to handicapped children. Members of this type of board are concerned with quality education and generally include parents, teachers, professionals involved with the education and treatment of children with special needs, and other community members who are interested in the education of handicapped children. Such a group has channels of communication open to local professional organizations concerned with the handicapped (Association for Retarded Citizens, for example) and to individuals such as parents of handicapped and nonhandicapped children, pediatricians, or attorneys sensitive to the needs of children. These are individuals who may be considered for selection as surrogates. It is recommended that any pool of surrogates not include state or local education employees. Because of their employment, they may be unable to act as impartially as desired. A surrogate must have the child's best interests constantly in mind, and if he is employed by a local or state system concerned with handicapped children, he is placed in the position of serving two masters.

Once the state board has identified persons it feels would be effective surrogates, it will send their names to the state education agency, which has the responsibility of assigning a surrogate to a specific child. Individuals should be located in all parts of the state so that every child will have easy access to his/her surrogate. The state agency should develop a training program, devise a system of compensation, determine the rules and regulations governing the employment of a surrogate, and develop plans to disseminate information about the program.

TRAINING

A surrogate can be truly effective only if he is well informed of the special needs of handicapped children and the provisions the state has made for filling those needs. Elements of a training program should include at least the following:

1. The role and responsibilities of the surrogate.
2. The specific nature and needs of different types of handicapping conditions.

3. The state's policies regarding the education of exceptional children including case law, rulings of attorneys general, and special education statutes and regulations.
4. Existing programs.
5. Options to consider, such as special class placement, special tutors, regular class placement with modification, and alternatives to public school.
6. The procedures governing the operation of special education programs.

COMPENSATION

There are many arguments concerning the value of volunteer surrogates as opposed to those who are paid for their services. However, there is support for the idea that in a decision as important as educational placement, a trained, paid surrogate is preferable to a volunteer. Some of the methods of payment for consideration by the state include:

- A flat rate for each assignment, much as a court appoints a lawyer for a specific case.

- Actual costs incurred in each case (time spent in meetings. travel, etc.).

- An annual salary scale, or some variation, regardless of the number of children appointed to one surrogate. In this case a limit would have to be placed on the number of assignments so that quality of representation would be insured.

EMPLOYMENT

Of prime importance in any advocacy system is the commitment of the advocate to the individual he represents. He must act in his client's best interests and attempt to meet his client's needs. As mentioned earlier, there is some doubt that a surrogate who is a public employee involved with children can adequately represent a child in a proceeding that also involves a public question. Particularly important, then, would be adherence to review mechanisms that could monitor surrogates to insure that they are truly representing their clients. Perhaps this monitoring responsibility could be shared with the state board that originally selected the surrogates. This shared responsibility would lend an element of objectivity to a potentially partisan situation. What must always be of paramount concern to all involved is that the child's rights are protected and that he is receiving quality representation.

DISSEMINATION

The state board charged with the responsibility of identifying parent surrogates should also be one of the mechanisms through which the program becomes visible. The board will have direct access to all types of persons interested and involved with handicapped children -- parents, teachers, professionals, professional groups, and more. These are the people who would either be interested in serving as surrogates or know of others who would be good possibilities. They might also be aware of children eligible for a surrogate.

The state's avenues to those who should be made aware of the program are many: the local education agencies, PTAs, teachers' groups, medical personnel, social services agencies, and others. A media campaign is most effective in reaching the general population and is an important part of implementing the whole concept. If the public at large is not familiar with the surrogate plan, all eligible children will not be adequately served.

The parent surrogate system described here puts the responsibility for the program squarely on the state. The means a state chooses to effect the surrogate plan are not the important thing. What is important is the surrogate concept itself -- a concept that can be extremely effective in insuring that all children are treated equally and are assured of the rights common to all, at least in the educational decision making process.

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CONNECTICUT STATE BOARD OF EDUCATION

Hartford

CONNECTICUT'S SURROGATE PARENT PROGRAM

July 1976

PART A

SURROGATE PARENT LEGISLATIVE REPORT

as required by SA 75-49

Connecticut State Board of Education
Hartford

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FOREWORD

This legislation report contains a design for implementing a surrogate parent program, in accordance with Section 614 of Public Law 93-380, the Education Amendments of 1974 to the Elementary and Secondary Act of 1965. This report was prepared with the assistance of a Task Force from the State Advisory Council on Special Education.

The State Board of Education extends its gratitude to the Task Force members for their efforts in developing the surrogate parent model.

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Introduction

"With enactment by the U.S. Congress of the Education Amendments of 1974 (Public Law 93-380), all state education agencies, in order to remain eligible for federal funds for the education of handicapped children, were required to adopt a state plan that would include provision of adequate due process in educational decision making."[1.] One of the requirements of this due process is the provision by the state of "procedures to protect the rights of the child when the parents or guardians are not known, unavailable, or the child is a ward of the state including the assignment of an individual (not to be an employee of the state or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardians,"..[2.] Compliance with this law is a necessary condition for eligibility to receive federal funds for education of the handicapped.*

In the 1975 session of the Connecticut General Assembly a special act (SA75-49) was passed mandating a study by the State Board of Education, in cooperation with other state agencies charged with providing services, programs, care or supervision to children in need of special education, of a "means of implementing a surrogate parent program, in accordance with section 614 of Public Law 93-380, The Education Amendments of 1974 to the Elementary and Secondary Act of 1965."[3.] Section 3 of SA75-49 requires that the State Board of Education shall, "on or before February 15, 1976, present a report of its findings to the general assembly and recommend to the general assembly specific statutory changes necessary to implement any such finding."[4.]

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1. A Primer on Due Process, Education Decisions for Handicapped Children, The Council of Exceptional Children, p.vii.
2. Public Law 93-380, Sec. 612 (d) (13) (iii), p.99.
3. Special Act 75-49, Section 1, see Appendix A.
4. Ibid., section 3.

* See also Sec. 4-28, Connecticut General Statutes, I,260.

The State Board of Education thrcugh the Advisory Council on Special Education appointed a Surrogate Parent Task Force to prepare the study and report. The Task Force was composed of members of the State Advisory Council on Special Education, the Deparment of Children and Youth Services, the Legal Aid Society of Hartford County and staff of the Bureau of Pupil Personnel and Special Educational Services of the State Department of Education.

In order to develop this report the Task Force held twenty-three discussion meetings, developed an amendment to the State Plan for Special Education Under Part B, Education of the Handicapped Act, As Amended by PL 93-380, authorized a computer search of the general statutes of Connecticut to ascertain the amendments needed to implement a surrogate parent program and consulted with representatives of the Department of Mental Retardation, the Board of Education and Services for the Blind, and of the Department of Corrections. Recommended statutory changes may be found at the end of this report.

Connecticut's Problem:

Although it is not possible to obtain precise figures delimiting the need for surrogate parents, many of Connecticut's children are wards of the state or their parents are unknown or unavailable. A significant percentage of these children are handicapped children and are, therefore, entitled to the protection of a surrogate parent appointed by the state to act as an advocate in the educational decision-making process.

Definitions:

1. "'Child' means any person under twenty-one years of age."[5]

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[5] Gneral Statutes, Conn. Rev. to 1975, Section 10-76a(b), II, 434.

2. The term "handicapped children" for the purpose of this report means children requiring special education as defined in Section 10-76a(e)(1) of the general statutes of Connecticut and "includes any exceptional child who (1) is mentally retarded, physically handicapped, socially and emotionally maladjusted, neurologically impaired, or suffering an identifiable learning disability which impedes his rate of development, which disability is amenable to correction or which rate of development may be improved by special education,..."[6.]
3. The 'surrogate parent' is "an individual appointed to safeguard a child's rights in the specific instance of educational decision-making..."[7.]
4. The 'educational decision-making process' includes "identification, evaluation, and placement,"[8.] as well as the hearing, mediation, and appeal procedures in the general statutes.[9.]
5. "Unknown" means "not known and can't be ascertained by reasonable diligence or after reasonable inquiry."[10.]
6. "Unavailable" means not present after "good faith effort to obtain his presence..."[10.]
7. "Agency" means the local education agency or any state agency responsible for the child.

Surrogate Parents:

1. Qualifications: A person assigned as a surrogate parent
   - shall be an adult.
   - shall not be an employee of the state or of a

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6. Ibid., Section 10-76a(e)(1)
7. A Primer, op.cit., p.38.
8. Ibid.
9. Gen.Stat., op.cit., Section 10-76, et seq, as amended by PA75-94, 75-255, p.438, 493, 521, and 587.
10. 43, Words and Phrases, unavailable, unknown

local educational agency involved in the education or care of children.

- shall have no other vested interest that will conflict with the primary allegiance to the assigned child.
- shall be knowledgeable about the educational system, special education laws, and the legal rights of the child in relation to the system.
- shall be reasonably well acquainted with the cultural and language background of the child.

2. Training: A person assigned as a surrogate parent
   - shall receive appropriate training concerning the nature and needs of different types of handicapping conditions, available programs and options, responsibilities and limitations of the surrogate parent, and the sources of assistance available to the surrogate parent, with special emphasis on the duties and responsibilities of the surrogate parent in relation to the child's records and on the need to seek competent legal assistance in implementing hearing and appeal procedures.
3. Appointment: A person assigned as a surrogate parent
   - shall be selected from a pool of qualified persons by the Secretary of the State Board of Education or his designee. In appointments, consideration

shall be given to the cultural and language background of the child. (See also Procedures hereinafter.)

4. Responsibilities: A person assigned as a surrogate parent

- shall represent the handicapped child in all educational decision-making processes concerning that child by:

(a) becoming thoroughly acquainted with the child's history and other information contained in school and other pertinent files, records, and reports relating to that child's educational needs,

(b) complying with state and federal law as to the confidentiality of all records and information pertaining to that child to which he/she is privy,

(c) using discretion in necessary sharing of information with appropriate people for the purpose of furthering the interests of the child,

(d) becoming familiar with the educational prescription for the child and by giving his/her approval,

(e) reviewing and evaluating special education programs pertaining to the child and such other programs as may be available,

(f) initiating the mediation, hearing, and/or appeal procedures and seeking qualified legal assistance when such assistance is in the best interest of the child.

5. Protections: A person assigned as a surrogate parent

- shall be held harmless by the state when acting in his official capacity except for acts or omissions which are found to have been wanton, reckless or malicious.[11]

- shall not be considered a member of the "public" for purposes of Section 10-209, General Statutes of Connecticut, Revised to 1975.
- shall have the same protections and immunities in professional communications as those provided teachers and nurses in Section 10-154a, General Statutes of Connecticut, Revised to 1975.
- shall be reimbursed by the State Board of Education for all reasonable and necssary expenses incurred in pursuit of duties, the amount and form of such reimbursement to be determined by regulation.

Procedures:

The Agency responsible for providing special education for the child receives request:

Any person who knows of a child who may need special education services and also knows or believes that a child's parents or guardians are not known, are unavailable, or that a child is a ward of the state, may submit a written request to the Agency for the assignment of a surrogate parent to the child. A copy of the request should be sent to the State Advisory Council on Special Education or the State Board of Education and directed to the appropriate officer in charge of the surrogate parent program.

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[11] General Statutes Conn. Section 10-235(b), II, 540.

Agency Investigates:

It will be the responsibility of the Agency to determine whether or not the parents or guardians of the child are not known, are unavailable, or the child is a ward of the state. Such determination shall be made within ten (10) days following the submission of a request for the assignment of a surrogate and written notice of the result of such determination shall be forwarded to the SEA, the State Advisory Council, and to the person who filed the request.

Unable to Locate Parent:

If the parents or guardians are found to be available, the request is dropped and notice of such disposition of the case is sent to the person who filed the request.

Agency Requests State Education Agency to Determine if There is Need For Surrogate:

If no parent or guardian is found, the Agency will request the SEA to review the case and determine whether or not there is need for a surrogate parent for the child.

State School Officer or Designee is Assigned:

A member of the State Department of Education staff designated by the secretary of the State Board of Education and specially trained for the assignment shall be delegated the responsibility for the case.

Officer Weighs Evidence:

The designated officer shall review the pertinent records and shall consult with the person who filed the request.

Officer Decides and Informs State Education Agency, "Agency", and State Advisory Council on Special Education:

The designated officer, having found that the status of the child meets the criteria for the assignment of a surrogate parent, shall request the Advisory Council on Special Education to appoint a surrogate parent to the child. The review and appointment procedure must be completed within thirty (30) days of his designation or within forty-five (45) days of the intitial request for a surrogate parent.

The recommendation for appointment of a surrogate parent along with all necessary supporting documents shall be submitted to the Juvenile Court for the official appointment of the surrogate parent by the court.

If the child is found not in need of a surrogate parent, the process will stop there and notification of such finding will be sent to the Agency, State Advisory Council, and to the person who filed the request.

The educational placement of the child shall not be changed during the above process nor prior to the participation of an assigned surrogate parent in the educational decision-making process.

PROCEDURE

Cumulative Time	Maximum Time for Each Step	PROCEDURE
10 days	10 days	NOMINATION OF A CHILD -- WRITTEN REQUEST TO AGENCY AGENCY RECEIVES REQUEST -- SEND COPIES TO SEA, STATE ADVISORY COUNCIL AND APPROPRIATE OFFICER AGENCY INVESTIGATES UNABLE TO LOCATE PARENT --- PARENT LOCATED, REQUEST IS TERMINATED
40 days	30 days	AGENCY REQUESTS SEA TO REVIEW THE CASE EVIDENCE IS WEIGHED -- IF CHILD MEETS THE CRITERIA
45 days	5 days	SURROGATE PARENT ASSIGNED (RECOMMENDATION) APPOINTMENT REQUESTED FROM JUVENILE COURT
90 days	45 days	SURROGATE PARENT APPOINTED BY JUVENILE COURT

PART B

STATE OF CONNECTICUT

P.A. 76-429

AN ACT CONCERNING SURROGATE PARENTS

STATE OF CONNECTICUT

P.A. 76-429

AN ACT CONCERNING SURROGATE PARENTS

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) As used in this act: (1) "Surrogate parent" shall mean the person appointed by a juvenile court, upon the recommendation of the secretary of the state board of education, as a child's advocate in the educational decision-making process in place of the child's natural parents or guardian; (2) "the educational decision-making process" shall include the identification, evaluation, placement, hearing, mediation and appeal procedures provided for in chapter 164 of the general statutes; (3) "unavailable" shall include, but not be limited to, a parent or guardian who is committed to a mental institution, incarcerated or otherwise unable to act as the child's advocate in the educational decision-making process.

Sec. 2. (NEW) (a) When in the opinion of the secretary of the state board of education or his designee, a child, as defined in section 10-76a of the general statutes, as amended by section 60 of public act 75-567, may require special education and the parent or guardian of such child is unknown or unavailable or such child is a ward of the state, the secretary or his designee may petition the juvenile court in the district wherein such child resides for the appointment of a surrogate parent who shall represent such child in the educational decision-making process. The petition to the juvenile court shall be verified and shall include the child's name, date of birth, sex and residence, a statement explaining why the child meets the criteria for the appointment of a surrogate parent and the name of a proposed surrogate parent who is qualified to represent the child in the educational decision-making process.

(b) Upon the filing of a verified petition for the appointment of a surrogate parent, pursuant to subsection (a) of this section, the juvenile court shall cause a summons to be issued requiring the parents or parent or guardian of such child to appear in court for a hearing at the time and place named, which summons shall be served not less than seven days prior to the date of such hearing in the manner prescribed by section 17-61 of the general statutes, and said court shall further give notice, not less than seven days prior to such hearing date, to the petitioner of the time and place the petition is to be heard. The cost of service of any such summons and any costs incurred in the giving of such notice shall be paid by the state board of education.

Sec. 3. (NEW) Upon a finding by the juvenile court that the child on whose behalf a petition was filed pursuant to section 2 of this act meets the criteria for the appointment of a surrogate parent, such court shall appoint a surrogate parent for such child who shall be the proposed surrogate parent named in the petition or, if the court determines that such proposed person shall not be the surrogate parent, another person recommended by the secretary of the state board of education, upon the request of the court to make another recommendation, and agreed upon by the court. Such appointment shall be effective until the child reaches eighteen years of age, provided the secretary of the state board of education, not less than thirty days prior to the child's eighteenth birthday, may petition the court for an extension of the original order until the child graduates from high school or reaches the age of twenty-one years, whichever occurs first, and further provided that the secretary may petition the juvenile court at any time for the replacement of the surrogate parent. Upon the filing of any such petition, the court shall cause a summons to be issued requiring the child and surrogate parent to appear in court at the time and place named, which summons shall be served not less than seven days prior to the date of the hearing in the manner prescribed by section 17-61 of the general statutes, and said court shall further give notice, not less than seven days prior to such hearing date, to the petitioner of the time and place when the petition is to be heard. The cost of service of any such summons and any costs incurred in the giving of such notice shall be paid by the state board of education. If the surrogate parent resigns or dies or for any other reason is unable to continue as surrogate parent for the child, the secretary of the state board of education shall, if he deems the appointment of a successor surrogate necessary, petition the court in the same manner as provided in subsection (a) of section 2 of this act and the court shall give notice to the parent, parents or guardian in the same manner as provided in subsection (b) of section 2 of this act.

Sec. 4. (NEW) The surrogate parent of any child appointed pursuant to section 3 of this act shall have the same right of access as the natural parents or guardian to all records concerning the child, including, but not limited to, educational,medical, psychological and welfare records. No surrogate parent appointed pursuant to the provisions of said section 3 shall be liable to the child entrusted to him or the parents or guardian of such child for any civil damages which result from acts or omissions of such surrogate parent which constitute ordinary negligence. This immunity shall not apply to acts or omissions constituting gross, wilful or wanton negligence.

Sec. 5. (NEW) The secretary of the state board of education shall promulgate regulations establishing qualifications and training procedures necessary for any surrogate parent appointed pursuant to section 3 of this act. The state advisory council on special education shall monitor the administration of the provisions of this act.

Sec. 6 This act shall take effect from its passage.

STATEMENT OF PURPOSE: To meet federal requirements pursuant to P.L. 93-380 and to protect the educational rights of children requiring special education by providing for the appointment of a surrogate parent for any such child whose parent or guardian is unavailable or any such child who is a ward of the state.

PART D

A MODEL FORMAT FOR SCREENING AND SELECTION OF SURROGATE PARENTS

A MODEL FORMAT FOR SCREENING AND SELECTION OF SURROGATE PARENTS

Appoint a Coordinator of Surrogate Parents whose responsibilities will include the following:

1. Develop a printed description of surrogate parents; (Document should be given in response to initial contacts and inquiries);
2. Develop and distribute to interested persons a formal application;
3. Consider all applications;
4. Conduct screening interviews in conjunction with a standing committee comprised of representatives from the State Advisory Council on Special Education and bureau consultants. (Should be a structured period of time and the candidate should be allowed to talk about himself and tell why he wants to be a surrogate parent. This interview should not be of a counseling or psychiatric nature, but should allow the candidate to be free to see if he wants to be a surrogate parent and the committee to develop hunches as to whether he should be);
5. Forward a letter of nomination based upon a review of the application and interview session, approximately one week after the interview. (In cases of rejection, it is additionally helpful to discuss the situation personally with the idea of rechanneling the candidate's abilities in another direction);
6. Develop and conduct orientation and training sessions for accepted applicants. (The training sessions should provide an opportunity for learning about potential proteges* and what a surrogate parent does. For an example, where a protege is suspected LD, such study titles could include an introduction to LD; normalization and risk with LD; the advocate/protege relationship; etc.). A good training period should include at least four (4) sessions;
7. Letter of appointment as surrogate parent.

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*The handicapped child in an advocacy relationship is a "protege".

STRUCTURED INTERVIEW SHEET FOR SURROGATE PARENT

1. Why do you wish to become a surrogate parent?

2. When you hear the words "special education" mentioned, what do you think of?

3. Do you feel that today's society accepts the exceptional child?

4. Briefly describe what surrogate parent means to you. (One short paragraph is sufficient).

5. Do you feel that society at times fails to recognize the needs of those individuals not as fortunate as yourself? (If so, what do you feel that you as a concerned citizen can do to help?)

6. How long have you lived in the community?

7. How much time will you have to devote to responsibilities as a surrogate parent?

8. It is important to have some basic knowledge of your protege's condition. Opportunity will be given for you to increase your knowledge. Which of the following would you participate in?

    (a) Individual study

    (b) Session(s) of group training

APPLICATION FOR SURROGATE PARENT

Name: ______________________ Date of Birth: __________

Address: ______________________ Home Telephone: __________

Marital Status: ______________________

Number of Children: Boys __________ Girls __________

Previous experience with children or youth: ______________________

____

____

____

____

Occupation: ______________________

Religious preference: ______________________
(Optional)

Special interests or activities

1. ______________________ 3. ______________________
2. ______________________ 4. ______________________

List the state or local organizations, committees, etc., in which you participate:

1. ______________________ 3. ______________________
2. ______________________ 4. ______________________

List three references:

	Name	Title	Address
1.			
2.			
3.			

SECTION IV

EXCEPTIONAL CHILDREN AND EDUCATIONAL PROGRAMMING

SECTION IV EXCEPTIONAL CHILDREN AND EDUCATIONAL PROGRAMMING

OBJECTIVES	ACTIVITIES	MATERIALS
1. Describe classifications 2. Discuss characteristics 3. Define role of labels in program provisions 4. Describe various instructional models that attempt to provide educational program 5. Define role and relationship of personnel within each model	1. Small group discussion 2. Large group discussion 3. View transparencies on cascade of services	1. Transparencies Cascade of Services Book of Readings 1. "Children's Rights" 2. "Manual on Mental Retardation" 3. "Keeping....Regular Classes" 4. "In-School Screening" 5. "Continuity and Unity" 6. "Behavioral Characteristics of Children with Special Learning Disabilities" 7. "Background and Definitions of Learning Disabilities" 8. "The Learning Disabilities Specialist: Role and Responsibilities" 9. "Reaching the Unreachable Child"

EXPANDED ACTIVITIES

ACTIVITY 1

1. Form 3 small groups labeling each (MR, ED, LD)
   Generate characteristics that describe the group's label
2. Build a profile of each category and record on newsprint. (Worksheet #5)
3. Convene large group and share discussion regarding profile for each label

ACTIVITY 2

1. View transparencies on Cascade of Services
2. Form small groups of 4 or 5 and determine the advantages
3. Form small groups according to labels and determine appropriate services for each label
4. Discuss the advantages and disadvantages of each, record on Worksheet #5
5. Convene large group and discuss programming options for all labels

SUGGESTED READING FOR SECTION V

(Book of Readings)

A Primer on Due Process, Sec. 1 and 2, Background and Intent; Procedures, Sequences and

*State Procedures for Due Process
  Child Study Team
  Mediation
  Hearing
  Appeal

*State Procedures for Parent Involvement in Due Process

*Insert State Procedures

PARTICIPANT WORKSHEET #5

PROFILE OF ____________________CHILD

1.

2.

3.

4.

5.

6.

7.

8.

9.

PARTICIPANT WORKSHEET #6

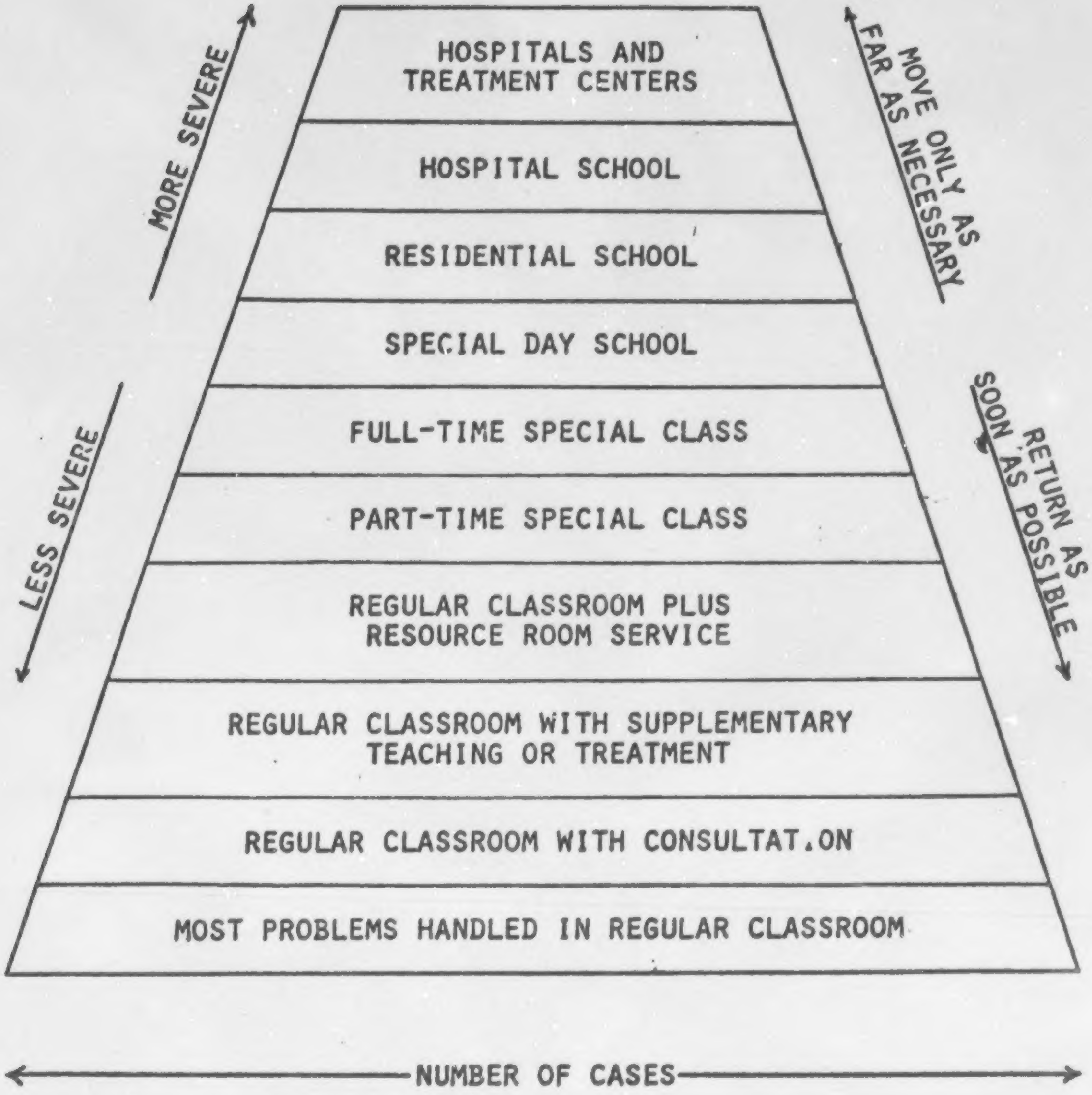
APPROPRIATE SERVICES FOR THE ______________________________ CHILD

1. ______________________________
2. ______________________________
3. ______________________________
4. ______________________________
5. ______________________________
6. ______________________________

ADVANTAGES	DISADVANTAGES
1. ______________________________	1. ______________________________
2. ______________________________	2. ______________________________
3. ______________________________	3. ______________________________
4. ______________________________	4. ______________________________
5. ______________________________	5. ______________________________
6. ______________________________	6. ______________________________

TRANSPARENCY SAMPLE #9

SPECIAL EDUCATION PROGRAMS



MORE SEVERE

LESS SEVERE

HOSPITALS AND TREATMENT CENTERS

HOSPITAL SCHOOL

RESIDENTIAL SCHOOL

SPECIAL DAY SCHOOL

FULL-TIME SPECIAL CLASS

PART-TIME SPECIAL CLASS

REGULAR CLASSROOM PLUS RESOURCE ROOM SERVICE

REGULAR CLASSROOM WITH SUPPLEMENTARY TEACHING OR TREATMENT

REGULAR CLASSROOM WITH CONSULTATION

MOST PROBLEMS HANDLED IN REGULAR CLASSROOM

MOVE ONLY AS FAR AS NECESSARY

RETURN AS SOON AS POSSIBLE

NUMBER OF CASES

SECTION V

STATE DUE PROCESS PROCEDURES

SECTION V STATE DUE PROCESS PROCEDURES

OBJECTIVES	ACTIVITIES	MATERIALS
1. Define concept of due process	1. View video-tape	1. CEC Hearing on Due Process video tape 45-50 mins.
2. Define due process provisions within state	2. Small group discussion	2. *State Due Process Procedures
3. Describe local child study team procedures	3. Role playing	3. Primer on Due Process Sec. 1 and 2
4. Define mediation process - role of parents		4. Rucker-Gable Scale of Educational Programming
5. Define hearing and appeal procedures - role of parents		
6. Define role of surrogate in state due process		

*Insert state procedures

EXPANDED ACTIVITIES

ACTIVITY 1

1. View video tape of a hearing
2. Form small groups of 4 or 5 and respond to the guided questions on Worksheet #7
3. Convene total group and discuss responses to the questions

ACTIVITY 2

1. Distribute the Rucker-Gable Scale and form groups of 4. Complete the 30 items individually
2. One person in each group is to volunteer as an observer
3. Using the 30 items, each group of 3 must come to a decision by consensus as to the appropriate placement for each child using individual selections as a base
4. The observer must not interact, merely observe the interaction process of the group using the role description sheet for Activity 2
5. Plot the consensus decisions on a graph and compare each group, using using different colors
6. Ask the observer to share observations made in his/her group

ACTIVITY 3

1. Form a group of 6 for a simulated mediation

2. Appoint individuals to assume the following roles:

   Principal
   Director of Special Education
   Teacher
   Social Worker
   Parent
   Mediator

3. Distribute role descriptions to each member and the nature of the problem

4. The remainder of the group should act as observers, noting the interaction process of the group in simulation

5. Convene the total group for discussion among the participants and observers

ACTIVITY 4

1. Form a group of 7 for a simulated hearing (Different people from Activity 3)

2. Appoint individuals to assume the following roles:

   Principal
   Director of Special Education
   Legal Counsel for the School
   Teacher

   Hearing Officer

   Parents
   Legal Counsel for the Parents

3. Distribute role descriptions and the nature of the problem

4. The remainder of the group should act as observers as in Activity 3

5. Convene the total group for discussion among the participants and observers

PARTICIPANT WORKSHEET #7

ACTIVITY I CEC VIDEO TAPE ON HEARING PROCESS

1. Comment on quality of preparation of participants involved

2. What was the issue?

3. Comment on the quality of presentations

4. What was the role of the parent?

5. What was the role of the school personnel?

6. What was the role of the hearing officer?

ACTIVITY 2 ROLE DESCRIPTION FOR THE OBSERVER

Copy and distribute this role description to the observer only.

The function of the observer is to observe the process of interaction between the 3 members of your group as they try to come to a consensus regarding the placement of each child.

Keep the following questions in mind as you make notes on their process of interaction:

Who was the most influential in swaying the group toward a decision? Why?

Did knowledge of exceptional children have any effect on the decisions?

What estimate of times did someone have to be forced to "give in"?

Did you agree with all the decisions being made by your group? Which would you have changed?

ACTIVITY 3 SIMULATED MEDIATION ROLE DESCRIPTIONS

Copy the role descriptions and distribute to the participants. Each participant should only know his/her role.

MEDIATOR: Your role is to conduct the session and assist both sides in giving information and coming to a mutual decision.

SCHOOL: Principal, Director of Special Education, Teacher, Social Worker

Your position regarding this child is the following:

1. This child is an emotionally distrubed child who exhibits severe acting out behaviors and disrupts the classroom structure, affecting the other children in the room.
2. You have a well-designed program for emotionally disturbed children. You feel that this child would have an appropriate educational and behavioral program if placed in this program.
3. You are proud of the quality of this program and have received praise from other educational circles.
4. You assume a very defensive attitude toward the program and its ability to meet the needs of emotionally disturbed children within the public school system.

PARENTS:

Your position regarding your child is as follows:

1. Your child is not emotionally disturbed but rather he is learning disabled.
2. You believe that the reason the child acts out is because he is not receiving an appropriate educational program.
3. Other parents have told you that the public school system in your town does not adequately staff the schools with learning disability teachers. You are convinced that the school is labeling your child emotionally disturbed becasue they won't admit that they don't have adequate provisions for a learning disabled child.
4. Since you have had a continual experience of no one really listening to you or caring at the school, you would like to place your child in a private school for learning disabled children before it is too late. You are very concerned for your child's future and ability to function in society in the near future.

PROBLEM:

Is the child emotionally disturbed or learning disabled?
What is the most appropriate program for the child?
Can the public school system provide or does the child need a private school for learning disabled children?

ACTIVITY 4 SIMULATED HEARING ROLE DESCRIPTIONS

Copy the role descriptions and distribute to the participants. Each participant should only know his/her role.

HEARING OFFICER: Your responsibility is to listen to all the evidence, question either side when necessary and come to what you believe is an impartial decision. You must come to a decision by the completion of this exercise.

PARENT AND PARENT LEGAL COUNSEL: Your position regarding your child is as follows:

1. The school was not providing an appropriate program to meet the needs of your child.
2. Because you were so dissatisfied with the educational program, you removed your child from the public school system and placed him in a private school.
3. You would like the school to assume the financial responsibility for your child's education in the private school.

PRINCIPAL, DIRECTOR OF SPECIAL EDUCATION, LEGAL COUNSEL FOR SCHOOL, TEACHER:

Your position regarding this child is as follows:

1. Your school was providing an adequate program to meet the needs of this child when he was withdrawn by the parents.
2. You can defend the fact that at this time you could provide an adequate program for the child should he be returned to your school system.
3. Because you can provide an adequate program, you do not feel you should assume the financial cost of the private school placement selected by the parents.

PROBLEM: Can the school provide an adequate program to meet this child's needs?

Should the school assume the financial cost of a private school placement made by the parent?

A PRIMER ON DUE PROCESS

Due Process of Law

Background and Intent

> Children's rights cannot be secured until some particular institution has recognized them and assumed responsibility for enforcing them. In the past, adult institutions have not performed this function partly...because it was thought children had few rights to secure. Unfortunately, the institutions designed specifically for children also have failed to accomplish this aim, largely because they were established to safeguard interests, not to enforce rights, on the assumption that the former could be done without the latter. (Rodham, 1973, p. 506)

With the conflict between safeguarding interests and assuring individual rights as a backdrop, the rights of children in many areas of American life are being examined and clarified, often through judicial intervention. Nowhere is this examination more intense than in public education. In this decade, questions of "rights" for public school students have been raised in relation to freedom of expression, personal rights such as hair length and dress regulations, marriage and pregnancy, police intervention, corporal punishment, discipline, and confidentiality of records. While all of these have an impact on handicapped children, none is more pervasive than the right to due process which governs decisions regarding identification, evaluation, and educational placement.

Children Out of School

In years past, prior to clarification of the due process obligations of public schools, thousands of children were arbitrarily suspended, excluded, pushed out of school or prevented from enrolling. Based on its analysis of 1970 US Bureau of the Census data on nonenrollment, the Children's Defense Fund (CDF) reported that "nearly two million children 7 to 17 years of age were not enrolled in school" (CDF, 1974). CDF postulated that the two million nonenrolled figure only "reflects the surface" of the total number. While no specific data is presently available on the precise number of handicapped children not receiving an education, it is well known that many are excluded from school. Indicative is the following CDF observation.

> We found that if a child is white but not middle class, does not speak English, is poor, needs special help with seeing, hearing, walking, reading, learning,

> adjusting, growing up, is pregnant or married at age 15, is not smart enough or is too smart, then, in too many places school officials decide school is not the place for that child. In sum, out of school children share a common characteristic of differentness by virtue of race, income, physical, mental or emotional "handicap," and age. They are, for the most part, out of school not be choice but because they have been excluded. It is as if many school officials have decided that certain groups of children are beyond their responsibility and are expendable. Not only do they exclude these children, they frequently do so arbitrarily, discriminatorily, and with impunity. (CDF, 1974, pp. 3-4).

Exclusion and the Right to an Education

Much litigation recently has been concerned with handicapped children seeking affirmation of their right to an education and the protection of due process of law (Abeson & Bolick, 1974). This wave of litigation is evidence of the way in which public schools in the past often ignored appropriate legal processes in denying these children their rights. The public schools often based such action upon law which was interpreted to give them the right to deny the opportunity of a public education to some children, either on a short term or permanent basis.

Today, it is a matter of public policy that the purported purpose of the public school is to provide every child with the opportunity for a free, public, and appropriate education.This policy makes it clear that to solve the problems a child is having in school by excluding him is not to solve the problems of the child, but of the school. It is unreasonable for the public schools to expel a child because of a behavioral problem (more popularly known as a discipline problem), an inability to learn, or any handicapping condition. The language of the courts is well known in the face of such abuses:

> There is no question that the plaintiff will suffer irreparable harm if her school career is permanently terminated and this may well result if her indefinite expulsion continues. . . . No authority is needed for the fundamental American principle that a public school education through high school is a basic right of all citizens. (Cook v. Edwards, 1972).
>
> A sentence of banishment from the local educational system is, insofar as the institution has power to act, the extreme penalty, the ultimate punishment. . . . Stripping a child of access to educational opportunity is a life sentence to second-rate citizenship (Lee v. Macon County Board of Education, 1974).

> In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. (Brown v. Board of Education, 1954).
>
> The Court declares that it is the established policy of the State of Maryland to provide a free education to all persons between the ages of five and twenty years, and this includes children with handicaps, and particularly mentally retarded children, regardless of how severely and profoundly retarded they may be. (Maryland Association for Retarded Children v. State of Maryland, 1974).

Prior to 1971 and the clear directives provided by the courts (Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 1971; Mills v. Board of Education of the District of Columbia, 1972; the Maryland case cited above; and others), some school exclusion was based on existing law and was in many quarters considered legal and appropriate. Typical were state statutes containing provisions for excluding children with physical or mental conditions or attitudes that prevented or rendered inadvisable their attendance at school or application to study. Often such provisions excluded children who were blind, "dumb," or "feebleminded" for whom no adequate instructional programs had been provided and children who lived more than a minimum distance from a public school or on a route on which no transportation was provided by school authorities.

The rationale that perhaps partially explains the existence of such statutes is represented by a 1919 ruling of the Wisconsin Supreme Court. That ruling provided for the exclusion of a non-physically-threatening cerebral palsied child on the basis that his "condition" produced a "depressing and nauseating effect on the teachers and school children and that he required an undue portion of the teacher's time" (Beattie v. State Board of Education, 1919).

Statutory provisions such as those indicated above sanctioned only the most obvious exclusion. Other more subtle devices have been and are today being used to accomplish similar objectives. An example is the use of tuition grant programs in most states, which enable the state and/or local education agency to provide public funds to parents for the purchase of private education programs (Trudeau & Nye, 1973a). Most often, such payments may be provided only when appropriate public programs are not available. These policies have the potential for wealth discrimination and exclusion because frequently a dollar ceiling insufficient to cover the cost of private tuition is placed on the amount of public funds that can be made available. If the family is unable to pay the difference, the child is subject to exclusion or inappropriate placement.

The right to education principle makes clear that when a state undertakes to provide education for any child and does so through the use of public or private programs as a matter of public policy, then the state must assume full financial responsibility for all children. This position has been clearly articulated in the order in Maryland Association for Retarded Children v. State of Maryland (1974). A series of decisions in New York Family Court also supported the right of every child to a free public appropriate education. Notable is In Re Downey (1973), in which the court stated that "to order a parent to contribute to the education of his handicapped child when free education is supplied to all other children would be a denial of the constitutional right of equal protection, United States Constitution, Amendment XIV, New York State Constitution Article XI, Section 1." Similarly in In Re K. (1973), the court held:

> It would be a denial of the right of equal protection and morally inequitable not to reimburse the parents of a handicapped child for monies they have advanced in order that their child may attend a private school for the handicapped when no public facilities were available while other children who are more fortunate can attend public schools without paying tuition and without regard to the assets and income of their parents.

Another practice used to exclude handicapped children occurs as a function of limited program alternatives. For example, in some states, children who need homebound or hospitalized instruction do not receive these services because they are not provided for by law. In other states children are placed on home instruction but then are provided no services or insufficient services to meet the standard of an appropriate public education. Frequently, children who are being considered for special education are assigned to waiting lists prior to an evaluation which is required by law before a special assignment can be made. Unfortunately, these children often wait at home rather than in school, and often for unnecessarily lengthy periods of time.

Labeling and Mislabeling -- Classification and Misclassification

Regardless of the types of exclusion that have been used and regardless of where they have occurred, the common denominator is that such practices have usually occurred with little or no regard for due process of law. The same observation can be made with regard to the manner in which children are placed in educational programs other than those provided for nonhandicapped children. Other practices associated with placement decisions include identification and evaluation that occur when school personnel suspect that a child may be handicapped and in need of a special program. In ignoring due process, the schools have in many instances, with or without appropriate supporting data, assigned labels to children, subjected children to individual psychological assessment, and altered their education status without parental knowledge or permission. The following, taken from a letter written to one of the authors, aptly describes the problem:

> Harris, my only son, is ten and is somewhat small for his age but has always been very active, playing with friends in his neighborhood. Last spring I got a note asking me to come to school. The pupil adjustment counselor told me that Harris and another boy, who had once been his friend, had been fighting and that Harris was not to return to school for a week. When he returned to school he was immediately sent home again for no specific length of time, but with the message that he couldn't return again until he "learns to behave." When I again went to school to see his teacher, I learned that Harris had been placed in a class for retarded children since last year. I became very upset because I had never been told of this. I did get a note from someone last year saying that Harris was receiving some special help with his studies, but it said nothing about a class for retarded children.

It is well known that labeling in and of itself, even when done carefully and with good intent, may produce negative effects on children. There can be no justification for unnecessarily submitting children to such effects. Three of the major problems associated with labeling practices are:

1. Labeled children often become victimized by stigma associated with a label. This may be manifested by isolation from usual school opportunities and taunting and rejection by both children and school personnel.

2. Assigning a label to a child often suggests to those working with him that the child's behavior should conform to the stereotyped behavioral expectations associated with the label. This often contributes to a self fulfilling prophecy in that the child, once labeled, is expected to conform to the stereotyped behavior associated with the label and ultimately does so. When a child is labeled and placement is made on the basis of that label, there is often no opportunity to escape from either the label or the placement.

3. Children who are labeled and placed on the basis of that label may often not need special education programs. This is obviously true for children who are incorrectly labeled but it also applies to children with certain handicaps, often of a physical nature. Just because a child is physically handicapped does not mean that a special education is required.

Decisions to label a child, even in his best interest, have grave consequences. Mercer (1975) quoted Alfred Binet's early concern about labeling practices and stigmatization resulting from such practices: "It will never be to one's credit to have attended a special school. We should at the least spare from this mark those who do not deserve it. Mistakes are excusable, especially at the beginning." Mercer added that "we are no longer at the 'beginning' in psychological assessment. 'Mistakes' are no longer excusable. We believe that children have a right to be free of stigmatizing labels" (p.140).

Hobbs (1975) put the total issue into perspective. "Categories and labels are powerful instruments for social regulation and control, and they are often employed for obscure, covert, or hurtful purposes: to degrade people, to deny them access to opportunity, to exclude undesirables whose presence in some way offends, disturbs familiar custom, or demands extraordinary effort" (p. 11).

Among the responses to the many challenges that have been directed at labeling and associated practices have been laws passed at both the state and federal levels establishing controls on such practices. In California, for example, state law specifies the type of evaluation to be used for children suspected of being mentally retarded. It also establishes specific standards which must be met prior to proclaiming a child mentally retarded (California Education Code, Sec. 6902.085). To specifically guard against the now widely recognized problem of penalizing children through the use of psychological instruments totally inappropriate to their culture, the Federal Education Amendments of 1974 (Public Law 93-380) require that state plans for the education of handicapped children will "contain procedures to insure the testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory" (Sec. 612, (13) (c)).

As has been indicated, there is widespread criticism, both formal and informal, as to the evils of labeling and the associated practices of misclassification and misplacement. While it is true that labeling may produce negative effects, these effects can be eliminated or reduced by better professional practices. The intent of placing a label on a child in the first place is to obtain special benefits for that child; it is not to single the child out for abuse, ridicule, or nonservice. Hobbs (1975) in the report of the massive Project on Classification of Exceptional Children, concluded:

> Classification of exceptional children is essential to get services for them, to plan and organize helping programs, and to determine the outcomes of the intervention efforts. We do not concur with sentiments widely expressed that classification of exceptional children should be done away with. Although we understand that some people advocate the elimination of classification in order to get rid of its harmful effects, their proposed solution oversimplifies the problem. Classification and labeling are essential to human communication and problem solving; without categories and concept designators, all complex communicating and thinking stop. (p. 5).

The dilemma is well summarized by Hobbs, who indicated that:

> Children who are categorized and labeled as different may be permanently stigmatized, rejected by adults and other children, and excluded from opportunities essential for their full and healthy development. Yet categorization is necessary to open doors to opportunity: To get help for a child, to write legislation, to appropriate funds, to design service programs. to evaluate outcomes, to conduct research, even to communicate about the problems of the exceptional child. (p. 3).

If one accepts Hobbs' conclusion that labeling and classification practices must continue, then equally important is acceptance of the critical relationship of due process. Given the positive and negative effects that can accrue to a labeled and classified individual, safeguards must be established to control these practices. Due process offers the potential for such a sfaeguard. Adherence to due process will reduce unnecessary labeling and classification and will contribute to delivery of the specialized services needed by children with special learning needs. Emphasizing the provision of due process to children suspected of being exceptional and in need of special education services is in part an attempt to build an effective review and control mechanism to guard against improper labeling and classification practices.

Due Process

The PARC Consent Agreement

Due process requirements of the public schools were first, and perhaps most clearly, established in the Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania Consent Agreement. Prior to ruling on the question of each mentally retarded child's right to an education, the court approved a stipulation which provided that "no child who is mentally retarded or thought to be mentally retarded can be assigned initially or reassigned to either a regular or special educational status, or excluded from a public education without a prior recorded hearing before a special hearing officer (PARC Consent Agreement, 1972). As part of that order a 23 step procedure was established guaranteeing due process, including a hearing, as indicated below:

> Whenever any mentally retarded or allegedly mentally retarded child, aged five years, six months, through twenty-one years, is recommended for a change in educational status by a school district, intermediate unit or any school official, notice of the proposed action shall first be given to the parent or guardian of the child.
>
> Notice of the proposed action shall be given in writing by registered mail to the parent or guardian of the child (N.B. being changed to certified mail).

The notice shall describe the proposed action in detail, including specification of the statute or regulation under which such action is proposed and a clear and full statement of the reasons therefor, including specification of any tests or reports upon which such action is proposed.

The notice shall advise the parent or guardian of any alternative education opportunities, if any, available to his child other than that proposed.

The notice shall inform the parent or guardian of his right to contest the proposed action at a full hearing before the Secretary of Education, or his designee, in a place and at a time convenient to the parent, before the proposed action may be taken.

The notice shall inform the parent or guardian of his right to be represented at the hearing by legal counsel, of his right to counsel, of his right to examine before the hearing his child's school records including any tests or reports upon which the proposed action may be based, of his right to present evidence of his own, including expert medical, psychological, and educational testimony, and of his right to confront and to cross-examine any school official, employee, or agent of a school district, intermediate unit or the department who may have evidence upon which the proposed action may be based.

The notice shall inform the parent or guardian of the availability of various organizations, including the local chapter of the Pennsylvania Association for Retarded Children, to assist him in connection with the hearing and the school district or intermediate unit involved shall offer to provide full information about such organization to such parent or guardian upon request.

The notice shall inform the parent or guardian that he is entitled under the Pennsylvania Mental Health and Mental Retardation Act to the services of a local center for an independent medical, psychological, and educational evaluation of his child and shall specify the name, address, and telephone number of the MH-MR center in his catchment area.

The notice shall specify the procedure for pursuing a hearing, which procedure shall be stated in a form to be agreed upon by counsel, which form shall distinctly state that the parent or guardian must fill in the form and mail the same to the school district or intermediate unit involved within 14 days of the date of notice.

If the parent or guardian does not exercise his right to a hearing by mailing in the form requesting a hearing within 14 days of receipt of the aforesaid notice, the school district or intermediate unit involved shall send out a second notice in the manner prescribed above, which notice shall also distinctly advise the parent or guardian that he has a right to a hearing as prescribed above, that he had been notified once before about such right to a hearing and that his failure to respond to the second notice within 14 days of the date thereof will constitute his waiver to a right to a hearing. Such second notice shall also be accompanied with a form for requesting a hearing of the type specified above.

The hearing shall be scheduled not sooner than 20 days nor later than 45 days after receipt of the request for a hearing from the parent or guardian.

The hearing shall be held in the local district and at a place reasonably convenient to the parent or guardian of the child. At the option of the parent or guardian, the hearing may be held in the evening and such option shall be set forth in the form requesting the hearing aforesaid.

The hearing officer shall be the Secretary of Education, or his designee, but shall not be an officer, employee or agent of any local district or intermediate unit in which the child resides.

The hearing shall be an oral, personal hearing, and shall be public unless the parent or guardian specifies a closed hearing.

The decision of the hearing officer shall be based solely upon the evidence presented at the hearing.

The local school district or intermediate unit shall have the burden of proof.

A stenographic or other transcribed record of the hearing shall be made and shall be available to the parent or guardian or his representative. Said record may be discarded after three years.

The parent or guardian or his counsel shall be given reasonable hearing by legal counsel of his choosing.

The parent or guardian or his counsel shall be given reasonable access prior to the hearing to all records of the school district or intermediate unit concerning his child, including any tests or reports upon which the proposed action may be based.

> The parent or guardian or his counsel shall have the right to compel the attendance of, to confront and to cross-examine any witness testifying for the school board of intermediate unit and any official, employee, or agent of the school district, intermediate unit, or the department who may have evidence upon which the proposed action may be based.
>
> The parent or guardian shall have the right to present evidence and testimony, including expert medical, psychological or educational testimony.
>
> No later than 30 days after the hearing, the hearing officer shall render a decision in writing which shall be accompanied by written findings of fact and conclusions of law and which shall be sent by registered mail to the parent or guardian and his counsel.
>
> Pending the hearing the receipt of notification of the decision by the parent or guardian, there shall be no change in the child's educational status.

While the PARC order was limited to the mentally retarded, in the subsequent mills (1972) decision the court ordered implementation of due process procedures closely comparable to the PARC requirements, but including all handicapped children.

The Tennessee Law

Shortly after the decisions in the early right to education cases were delivered, provisions for due process began to appear in both state and federal statutes. Among the first was Tennessee's 1972 special education law (Tennessee Code Annotated, Chapter 839, 1972) which contained the following section:

> SECTION 8. A. 1. A child, or his parent or guardian, may obtain review of an action or omission by state or local authorities on the ground that the child has been or is about to be:
>
> a. denied entry or continuance in a program of special education appropriate to his condition and needs.
>
> b. placed in a special education program which is inappropriate to his condition and needs.
>
> c. denied educational services because no suitable program of education or related services is maintained.
>
> d. provided with special education or other education which is insufficient in quantity to satisfy the requirements of law.

e. provided with special education or other education to which he is entitled only by units of government or in situations which are not those having the primary responsibility for providing the services in question.

f. assigned to a program of special education when he is not handicapped.

2. The parent or guardian of a child placed or denied placement in a program of special education shall be notified promptly, by registered certified mail, return receipt requested, of such placement, denial or impending placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to review of the determination and of the procedure for obtaining such review.

3. The notice shall contain the information that a hearing may be had, upon written request, no less than fifteen (15) days nor more than thirty (30) days from the date on which the notice was received.

4. No change in the program assignment or status of a handicapped child shall be made within the period afforded the parent or guardian to request a hearing, which period shall not be less than fourteen (14) days, except that such change may be made with the written consent of the parent or guardian. If the health or safety of the child or of other persons would be endangered by delaying the change in assignment, the change may be sooner made, but without prejudice to any rights that the child and his parent or guardian may have pursuant to this subsection or otherwise pursuant to law.

5. The parent or guardian shall have access to any reports, records, clinical evaluations or other materials upon which the determination to be reviewed was wholly or partially based or which could reasonably have a bearing on the correctness of the determination of any hearing held pursuant to this section, the child and his parent or guardian shall be entitled to examine and cross-examine witnesses, to introduce evidence, to appear in person, and to be represented by counsel. A full record of the hearing shall be made and kept, including a transcript thereof if requested by the parent or guardian.

6. A parent or guardian, if he believes the diagnosis or evaluation of his child as shown in the records made available to him pursuant to subsection 5 of this subsection to be in error, may request an independent examination and evaluation of the child and shall have the right to secure the same and to have the report

thereof presented as evidence in the proceeding. If the parent or guardian is financially unable to afford an independent examination or evaluation, it shall be provided at state expense.

7. The state board of education shall make and, from time to time, may amend or revise rules and regulations for the conduct of hearings authorized by this subsection and otherwise for the implementation of its purpose. Among other things, such rules and regulations shall require that the hearing officer or board be a person or composed of persons other than those who participated in the action or who are responsible for the omission being complained of; fix the qualifications of the hearing officers; and provide that the hearing officer or board shall have authority to affirm, reverse or modify the action previously taken and to order the taking of appropriate action. The rules and regulations shall govern proceedings pursuant to this subsection whether held by the State Board of Education, or by a County, City, or Special School District Board of Education.

8. The determination of a hearing officer or board shall be subject to judicial review in the manner provided for judicial review of determinations of the state or local education agency, as the case may be.

9. If a determination of a hearing officer or board is not fully complied with or implemented, the aggrieved party may enforce it by a proceeding in the chancery or circuit court. Any action pursuant to this subsection shall not be a bar to any administrative or judicial proceeding by or at the instance of the State Department of Education to secure compliance or otherwise to secure proper administration of laws and regulations relating to the provision of regular or special education.

10. The remedies provided by this subsection are in addition to any other remedies which a child, his parent or guardian may otherwise have pursuant to law.

B. Nothing in this Act shall be construed to limit any right which any child or his parent or guardian may have to enforce the provision of any regular or special educational service, nor shall the time at which school districts are required to submit plans or proceed with implementation of special education programs be taken as authorizing any delay in the provision of education or related services to which a child may otherwise be entitled.

The Massachusetts Law

In that same year the Massachusetts legislature also enacted a new special education statute (Massachusetts Law, Chapter 766, 1972), containing the following due process provisions:

> SECTION 3. In accordance with the regulations, guidelines and directives of the department issued jointly with the departments of mental health and public health and with assistance of the department, the school committee of every city, town or school district shall identify the school age children residing therein who have special needs, diagnose and evaluate the needs of such children, propose a special education program to meet those needs, provide or arrange for the provision of such special education program, maintain a record of such identification, diagnosis, proposal and program actually provided and make such reports as the department may require. Until proven otherwise, every child shall be presumed to be appropriately assigned to a regular education program and presumed not to be a school age child with special needs or a school age child requiring special education.
>
> No school committee shall refuse a school age child with special needs admission to or continued attendance in public school without the prior written approval of the department. No child who is so refused shall be denied an alternative form of education approved by the department, as provided for in section ten, through a tutoring program at home, through enrollment in an institution operated by a state agency, or through any other program which is approved for the child by the department.
>
> No child shall be placed in a special education program without prior consultation, evaluation, reevaluation, and consent as set forth and implemented by regulations promulgated by the department.
>
> Within five days after the referral of a child enrolled in a regular education program by a school official, parent or guardian, judicial officer, social worker, family physician, or person having custody of the child for purposes of determining whether such child requires special education, the school committee shall notify the parents or guardians of such child in writing in the primary language of the home of such referral, the evaluation procedure to be followed, and the child's right to an independent evaluation at clinics or facilities approved by the department under regulations adopted jointly by the department and the departments of mental health and public health and the right to appeal from any evaluation, first to the department, and then to the courts.
>
> Within thirty days after said notification the school committee shall provide an evaluation as hereinafter defined. Said evaluation shall include an assessment of the child's current educational status by a representative of the local school department, an assessment by

a classroom teacher who has dealt with the child in the classroom, a complete medical assessment by a physician, an assessment by a psychologist, an assessment by a nurse, social worker, or a guidance or adjustment counselor of the general home situation and pertinent family history factors; and assessments by such specialists as may be required in accordance with the diagnosis including when necessary, but not limited to an assessment by a neurologist, an audiologist, an ophthalmologist, a specialist competent in speech, language and perceptual factors and a psychiatrist.

The department jointly with the departments of mental health and public health shall issue regulations to specify qualifications for persons assessing said child.

These departments through their joint regulations may define circumstances under which the requirement of any or all of these assessments may be waived so long as an evaluation appropriate to the needs of the child is provided.

Those persons assessing said child shall maintain a complete and specific record of diagnostic procedures attempted and their results, the conclusions reached, the suggested courses of special education and medical treatment best suited to the child's needs, and the specific benefits expected from such action. A suggested special education program may include family guidance or counseling services. When the suggested course of study is other than regular education those persons assessing said child shall present a method of monitoring the benefits of such special education and conditions that would indicate that the child should return to regular classes, and a comparison of expected outcomes in regular class placement.

If a child with special needs requires of a (sic) medical or psychological treatment as part of a special education program provided pursuant to this section, or if his parent or guardian requires social services related to the child's special needs, such treatment or services, or both, shall be made available in accordance with regulations promulgated jointly by the departments of education, mental health, public health and public welfare in connection with the child's special education program. Reimbursement of the costs of such treatment or services or both shall be made according to the provisions of section thirteen.

Upon completion of said evaluation the child may obtain an independent evaluation from child evaluation clinics or facilities approved by the department jointly with the departments of mental health and public health, or at private expense from any specialists.

The written record and clinical history from both the evaluation provided by the school committee and any independent evaluation shall be made available to the parents, guardians, or persons with custody of the child. Separate instructions, limited to the information required for adequate care of the child, shall be distributed only to those persons directly concerned with the care of the child. Otherwise said records shall be confidential.

The department may hold hearings regarding said evaluation, said hearings to be held in accordance with the provisions of chapter thirty A. The parents, guardians, or persons with custody may refuse the education program suggested by the initial evaluation and request said hearing by the department into the evaluation of the child and the appropriate education program. At the conclusion of said hearing, with the advice and consultation of appropriate advisory councils established under section one P of chapter fifteen, the department may recommend alternative educational placements to the parents, guardians or persons with custody, and said parents, guardians and persons with custody may either consent to or reject such proposals. If rejected, and the program desired by the parents, guardian or person with custody is a regular education program, the department and the local school committee shall provide the child with the educational program chosen by the parent, guardian or persons with custody except where such placement would seriously endanger the health or safety of the child or substantially disrupt the program for other students. In such circumstances the local school committee may proceed to the superior court with jurisdiction over the residence of the child to make such showing. Said court upon such showing shall be authorized to place the child in an appropriate education program.

If the parents, guardians or persons with custody reject the educational placements recommended by the department and desire a program other than a regular education program, the matter shall be referred to the state advisory commission on special education to be heard at its next meeting. The commission shall make a determination within thirty days of said meeting regarding the placement of the child. If the parents, guardians, or person with custody reject this determination they may proceed to the superior court with jurisdiction over the residence of the child and said court shall be authorized to order the placement of the child in an appropriate education program.

During the course of the evaluations, assessments, or hearings provided for above, a child shall be placed in a regular education program unless such placement endangers the health or safety of the child or substantially disrupts such education program for other children.

No parent or guardian of any child placed in a special education program shall be required to perform duties not required of a parent or guardian of a child in a regular school program.

Within ten months after placement of any child in a special education program, and at least annually thereafter the child's educational progress shall be evaluated as set forth above. If such evaluation suggests that the initial evaluation was in error or that a different program or medical treatment would now benefit the child more, appropriate reassignment or alteration in treatment shall be recommended to the parents,

> guardians or persons having custody of the child. If the evaluation of the special education program shows that said program does not benefit the child to the maximum extent feasible, then such child shall be reassigned.

Public Law 98-380

By October 1, 1974, a survey of state policies regarding due process was completed by the State-Federal Information Clearinghouse for Exceptional Children (SFICEC, 1974). The survey revealed that 12 states were required by statute to provide such procedures, 13 were similarly required by regulation, and the remainder had no policy mandate. This situation will undoubtedly change significantly if not as a result of the continuance of the successful challenges that have already occurred, then in response to the new requirements of Public Law 93-380.

Specifically, Public Law 93-380 requires that a state, in order to retain its eligibility to receive federal funds for the education of the handicapped, must develop a plan, to be approved by the U.S.Commissioner of Education, that will:

> (13) provide procedures for insuring that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement of handicapped children including, but not limited to (A) (i) prior notice to parents or guardians of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardians to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardians are not known,unavailable or the child is a ward of the State including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardians, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal. (Public Law 93-380, Title VIB, Sec. 612(d)(13A)).

It is expected that these plans will be in force as of fiscal year 1976.

Placement in the Least Restrictive Alternative Educational Setting

Another key element of Public Law 93-380 that is closely related to due process is the requirement that handicapped children be placed for educational

101

purposes in the least restrictive alternative setting. Specifically, the law calls for the states to adopt:

> (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (Public Law 93-380, Title VIB, Sec. 612(d)(13B)).

Mainstreaming is the educational term often used to describe this programing principle. Using that term, another survey of state policies in this area was conducted by SFICEC in 1974 which revealed that 6 states have laws mandating placement according to this principle, 10 provide the authority through regulations and the remainder do not as yet have any formal policy governing this programing principle.

The relationship between due process and placement in the least restrictive alternative educational setting is extremely close. Due process establishes the procedures that require the schools to consider all program alternatives and to select that setting which is least restrictive. The basis of this entire concept is the existence of a variety of options or program settings that can be used to provide education to handicapped children depending on their individual needs. The "cascade" or ""continuum" approach to programing assumes that educational settings will range from regular classrooms to residential facilities, with a minimum of eight interim alternatives. In the past, few options existed beyond the regular program, the special class or school, or non-public-school programs such as institutions. In the absence of options, children who might be described as mildly handicapped were placed in special classes with little or no opportunity for participation in the school's regular program. Further, in many school districts this decision, like many exclusion decisions, was often reached in an arbitrary and capricious manner, with little or no attention to parent involvement, data collection, consideration of alternatives, or periodic review. Gallagher (1972), for example, reported that "in a number of large city school systems far less than ten percent of the children placed in special education classes are ever returned to regular education" (p. 527).

Clearly, the assignment of a label and/or placement in a special program are actions with potentially grave consequences which may affect the entire life of a child. Some legal theorists have indicated that a decision to place a handicapped child in any setting other than that used for his nonhandicapped peers is inherently restrictive and consequently a deprivation of individual liberty, a circumstance which demands due process of law.

Implementation of due process in this regard means that school officials must be prepared to accept the burden of proof for their recommendation. Regarding the least restrictive alternative principle, the burden of proof must relate to the concept well expressed in the Massachusetts statute that "until proven otherwise, every child shall be presumed to be appropriately assigned to a regular education program and presumed not to be a school age child with special needs or a school age child requiring special education" (Massachusetts Law, Chapter 71B, 1972),

Implications for Public Education Agencies

There is no mystery to why parents, advocates, and others have resorted to demanding that public school officials provide due process safeguards to handicapped children and their families when making educational decisions. As has been indicated, the abuses are legion and the actions have often been characterized by arbitrary and capricious behavior. In many instances, parents have literally been denied the chance of effectively participating in decisions having significant implications for the total life of their children. In commenting on the opportunity for hearings and due process achieved by the PARC litigation, Thomas Gilhool, attorney for the Pennsylvania Association for Retarded Children, said:

> A mechanism is created to assure that the educational program fits the child. The mere fact of a hearing opportunity on change in assignment and every two years thereafter will of course keep all the field professionals on their toes. There is a new instrument for accountability -- to the child, to the parent, to the Secretary of Education, and to the teacher as professional. (Lippman & Goldberg, 1973, p. 58).

It is important for public educators to understand that implementing due process may produce many positive benefits. The availability of due process procedures, particularly hearings, provides the parent with the opportunity for holding the professional accountable, a desire of many professionals. In this context, the procedures of due process that require parent-school communication create the opportunity for school personnel to be open and honest with the ultimate consumers of their services. These requirements will also enable educators to adopt an additional procedure that has long been a goal -- the provision of individually designed education programs. That objective, too, has been set forth in laws and other expressions of public policy. An example is the Mills requirement that "the Board of Education has an obligation to provide whatever specialized instruction that will benefit the child." Requiring that individual plans be developed will lead to further specific determinations as to needed resources including personnel, space, and dollars required for educating each child. Such data can be presented to appropriations bodies such as the local board of education or state legislature.

In addition, individual plans provide the basis for intelligent assessment of a child's progress in relation to the objectives initially established. This concept of periodic review, also a requirement of total due process protection, conforms with good educational programing as well. A 1973 review of state laws and administrative procedures relating to the placement of exceptional children (Trudeau & Nye, 1973b) revealed tremendous variability among the states in this regard. Analysis of the variance indicated that depending on the state, periodic reviews are required continuously, once a semester, routinely within 3 years of initial placement, or never.

Adherence to the provisions of due process also permits the school to adopt a totally new public relations approach to the education of handicapped children. Because the schools can no longer be secretive in the way they deal with these children and their parents, they have the opportunity to be totally honest in explaining to the community what they can and cannot do and the reasons why. One of the criticisms that has been directed at the psychiatric community by Chief U.S.District Court Judge David Bazelon regarding its role in courts of law has been its failure to be honest. Bazelon demands of individuals working with persons who have psychiatric problems: "Tell us you can't handle the caseload, or that you don't know or that the conditions under which you work make decent evaluations impossible." Such admissions, he reasons, will help "ventilate" the problem, and perhaps, make the issue a ripe candidate for reform (Pekkanen, 1974, p. 27).

Due process also provides an opportunity for public educators to effectively meet the educational needs of children even when there is parental resistance. From time to time, all school agencies face situations in which children who are in desperate need of assistance are prevented from receiving aid due to parental wishes. Procedures can be established by which the process, including hearings, can operate to provide the schools with the opportunity to evaluate and, when necessary, to place the children in special programs.

Finally, educators must be aware that adherence to due process procedures will in no way reduce their professional responsibility or authority. It can provide them with the leverage to do that which must be their goal -- to act openly and in the best interests of the children they serve.

Due Process of Law

Procedures, Sequences, and Forms

> The late Supreme Court Justice Felix Frankfurter, discussing the constitutional dimensions of due process, described the nature of the concept: "Fairness of procedure is 'due process in the primary sense'. . . . 'Due process' cannot be imprisoned within the treacherous limits of any formula. . . . Due process is not a mechanical instrument. It is not a yardstick. It is a process. It is a delicate process of adjustment inescapably involving the exercise of judgment." (Joint Anti-Facist Committee v. McGrath).

Providing a child with an appropriate education is of equal interest and importance to the child, the family and the schools. To insure that education, it is imperative that, when initial educational evaluation and placement decisions or changes in existing placement are being considered, due process protections must be provided to the child, the family, and the schools. All of these parties will benefit from adherence to well developed educational practices and the elements of due process. When appropriate decisions about a child's education are made in a forthright manner, these parties will be in harmony and the challenges inherent in due process need not be involved. Under other less positive circumstances, however, conflict will emerge and require resolution. Hearings conducted by impartial officers serving as designees of the chief state school officer will be convened, not to place blame or determine right or wrong, but to achieve resolution of the conflict and define an appropriate education program for the child. While the procedures presented here may appear complex and perhaps circuitous, it must be emphasized that none of the alternative routes to challenge need be used if all parties agree on the educational needs of the child and the appropriateness of the program proposed by the schools.

The right to due process is entrenched in the Fifth and Fourteenth Amendments of the U.S. Constitution. The Fourteenth Amendment provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law." This constitutional responsibility was affirmed by the U.S. Congress in 1974 when all states were required to include due process procedures in their state plan for the education of handicapped children in order to remain eligible to participate in federally sponsored programs for these children (Public Law 93-380, 1974).

Most states have in force administrative appeals procedures that apply generally to all types of administrative decision making, including education.

Typically, a parent who raises an education issue with a local administrator must carry his position to the superintendent, the local board, the chief state school officer responsible for education, the state board of education, and finally, if necessary, to the courts. Unfortunately, years can and frequently do go by before the issue is resolved. Such a time lapse violates an individual's right to speedy proceedings. In addition, such routes often violate the complaining party's right to fair proceedings. There may be no opportunity to present additional evidence or challenge existing evidence. Serious question can also be raised as to the "fairness" of the same agency officers sitting in review.

In the following pages procedures are proposed that limit the total time spent by all parties engaged in administrative due process regarding identification, evaluation, and placement decisions about handicapped children. The proposed procedures are precise and systematically tied together. The proposed process builds on the establishment of a single hearing before a hearing officer whose actions and decisions represent those of the state education agency and are directly appealable to an appropriate court. It is recognized that this procedure may not be compatible with existing law regarding due process and/or administrative appeals in all states. However, it does provide the potential for fair and speedy resolution of the issues. Further, these procedures are intended to encourage state and local education agencies to examine and possibly refine their particular due process procedures, including changing the law where necessary. It is important to keep sight of the basic intent of the proposed administrative procedures -- to provide parents* and school districts with viable means to achieve the most equitable resolution of conflicts.

Due Process Minimums

A review of judicial orders, existing state and federal legislation, and the work of legal analysts suggests that the following procedures must be provided in order to meet minimum due process standards in identification, evaluation, and educational placement of handicapped children.

1. Written notification before evaluation. In addition, parents always have the right to an interpreter/translator if their primary language is not English. (See Form 1, Request for Interpreter/Translator, in the Appendix.)

2. Written notification before change in educational placement.

3. Periodic review of educational placement.

4. Opportunity for an impartial hearing including the right to:

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*The term parent shall be used to mean the child's parent, legal guardian, or surrogate parent, or the child himself when over the age of majority.

Receive timely and specific notice of such hearing.

Review all records.

Obtain an independent evaluation.

Be represented by counsel.

Cross examine.

Bring witnesses.

Present evidence.

Receive a complete and accurate record of proceedings.

Appeal the decision.

5. Assignment of a surrogate parent for children when:

The child's parent or guardian is not known.

The child's parents are unavailable.

The child is a ward of the state.

6. Access to educational records.

In order to execute these minimums the state, in adopting its procedures, must provide for:

- Enforcement of the requirements.
- Training of state and local education agency personnel.
- Identification, training, and monitoring of hearing officers.
- Recruitment, training, and monitoring of surrogate parents.

The state in providing appropriate due process procedures should build, to the greatest degree possible, on a combination of formal procedures and informal negotiation. Appropriate formal administrative due process procedures will greatly reduce the need for and frequency of judicial review, and sound informal discussions will reduce the need for hearings. Frequently, unresolved issues that lead to hearings are discovered to be issues because of ineffective communication between the parent and schools. Often a casual afterschool parent-school conference or other informal conversation will avoid the necessity for a hearing.

Educational administrators, teachers, and parents should work together to achieve the following conditions that enhance informal review:

- Parent involvement in all decisions that affect the educational programming of their child.
- Parent and professional awareness of their rights and responsibilities and those of the child.
- Access by parents to all levels of the educational hierarchy and system.
- Carefully developed administrative procedures that are written, codified, and made known to all involved in the process.

Suggested Due Process Procedures

It is the responsibility of both state and local education agencies to provide appropriate administrative due process procedures that include at least the minimums described earlier. Additional procedures are presented here that incorporate the minimums within a total process that guarantees full protection of the law to children, their parents, and the public schools. In presenting these suggested procedures, it is recognized that there may be state and local education agency policies that bar adoption of some elements of the suggested procedures in their present form. Changes may have to be made in the procedures and/or state and local policies to fulfill the due process obligation. Incorporated into these suggestions are related directives that insure both appropriate educational practices and adherence to newly emerging state and federal law.

Nothing in the suggested procedures should be construed as authorizing any delay in the provision of education or other related services to which a child is otherwise entitled. Neither should the procedures be construed as a bar to any administrative or judicial proceeding by the child, parent, or public school personnel to secure compliance or otherwise to secure the proper implementation of the laws and regulations relating to the provision of regular or special education. Forms addressing the major elements of the due process procedure can be found in the Appendix.

Written Notification Before an Evaluation

When there is reason to believe that a preschool or school age child is in need of special education services and the child becomes a candidate for individual evaluation procedures (Form 2, Referral for Evaluation), including informal assessment or observation and formal testing, then written permission must be obtained by the local education agency from the parents before the process can begin. This shall also apply when periodic reevaluation is planned.

Notice of Intent

Prior to the performance of an evaluation the parent shall be provided with both written and oral notices of intent to conduct an evaluation (Form 3, Notice of Intent to Conduct an Evaluation). The written notice shall be in the primary language of the home and in English and will be delivered to the parent during a conference or mailed by certified mail. Oral interpretation shall always be given in the primary language of the home. If the primary language of the home is other than English and a member of the household requests that English also be used, then a second oral interpretation shall be given in English. When necessary, arrangements shall be made to effectuate communication with hearing and visually handicapped parents.

The notice of intent should contain the following:

1. The reasons the evaluation has been requested and the name of the person(s) who initiated the process.
2. The evaluation procedures and instruments that will be used.
3. A description of the scope of the procedures and instruments that will be used.
4. A statement of the right to review the procedures and instruments to be used.
5. A statement of the right to review and obtain copies of all records related to the request for the evaluation and to give this authority to a designee of the parents as indicated in writing.
6. A description of how the findings of the evaluation are to be used, by whom, and under what circumstances.
7. A statement of the right to refuse permission for the evaluation with the understanding that the local education agency can then request a hearing to present its reasons and try to obtain approval to conduct the evaluation.
8. A statement of the right to be fully informed of the results of the evaluation.
9. A statement of the right of the parent to obtain an independent educational evaluation, either from another public agency with the fee determined on a sliding scale or privately at full cost to the parent.
10. A declaration that the child's educational status will not be changed without the parent's knowledge and written approval or completion of the due process procedures described in the right to hearing section of these procedures (p. 27).

11. Identification of the education agency employee (chairperson of the evaluation team) to whom the parent response should be sent and the deadline for response given in terms of the day, date, and time. In no case should the deadline be less than 10 school days nor more than 15 school days after receipt of the notice.

A form requesting written parent permission to conduct the evaluation should be enclosed with the notice of intent (Form 4, Parent Permission Form). This form should be written in the primary language of the home and in English. In addition to written parental permission to evaluate, the local education agency should obtain written parental acknowledgment of receipt and understanding of the notice of intent.

Notice of the Local Education Agency's Request for Hearing

Upon receipt of written parental permission, evaluation procedures should be put into motion. However, if the parent refuses to grant permission for an evaluation or if he fails to return the permission form within 15 school days of receipt of the notice of intent, the local education agency shall have the right to request a hearing to obtain approval to conduct an evaluation. If it requests a hearing, the local education agency must provide written notice to the parent in the primary language of the home (Form 5, Notice of the Filing of a Request for a Hearing). This notice should be sent by certified mail so that a signed receipt can be obtained. It should be sent on the same day the request for a hearing is filed. The notice should include:

1. A copy of the original notice of intent to conduct an evaluation.
2. A detailed description of all of the rights regarding procedures at the due process hearing (see p. 28).
3. A list of those agencies in the community from which legal counsel may be obtained for those unable to pay.
4. A description of the procedures for appealing the decision resulting from the due process hearing (see p. 30).

In addition to written notification, the local education agency should also attempt to provide oral notice and interpretation in the primary language of the home. This shall be given by the chairperson (with an interpreter, if necessary) of the proposed evaluation team.

Evaluation Procedures

Often the evaluation process is supervised by a special education administrator, facilitated and coordinated by the chairperson of the student's evaluation team, and carried out by a team of professionals from several disciplines -- school officials, teachers, social workers, registered nurses, physicians, psychologists, and, as appropriate, other diagnostic specialists. Frequently, evaluation teams are also referred to as interdisciplinary teams, multidisciplinary teams, core evaluation teams, or student assessment teams. The work of the team should be carried out in a manner that encourages substantial parent participation.

The following procedures apply to periodic reevaluation as well as to the initial evaluation.

1. Within 5 school days after receipt of written parental permission, or after a final decision to conduct an evaluation is forthcoming from a due process hearing, the chairperson of the evaluation team shall advise the parent of the evaluation schedule (date, time, and location). This notice shall be delivered in writing, in the primary language of the home and in English, and orally in the primary language of the home (Form 6, Evaluation Schedule and Procedures).

2. Within 30 school days after notifying the parent of the schedule, the evaluation will be completed unless another date is specified and agreed to in writing by the parent.

3. Within 15 school days after the completion of the evaluation, the parent shall be given, in writing in the primary language of the home and in English and orally in the primary language of the home, the results of the evaluation, the educational implications, and a written individualized educational plan (Form 7, Educational Plan: Development). The parent should be provided with the opportunity to be an active participant in the development of the educational plan.

4. The chairperson of the evaluation team will assure the parent that no change in the child's educational status will occur without the knowledge and written approval of the parent and that due process procedures (described on p. 28) will be followed.

5. The chairperson of the evaluation team will indicate in writing that reevaluation will be required no later than 8 calendar months after the initial evaluation and then at least every calendar year so long as the child continues to receive special services; but that upon parent request, a review may be conducted at any reasonable time after the first 3 months of the placement.

Written Notification Before Change in Education Placement

Within 15 school days after completion of the evaluation and development of the written individualized educational plan (Form 7, Educational Plan: Development), the chairperson of the evaluation team or periodic review team shall inform the parent in writing by certified mail or personally in a conference held in the primary language of the home and in English that a change in the educational status of the child is proposed or that a requested change in placement is denied. A form requesting parental approval of the proposed educational plan and placement should be included (Form 8, Educational Plan: Request for Parent's Approval).

Information included in this written notice should:

1. Describe in detail the proposed individualized educational plan, the method by which it was developed, the reasons why the proposed placement is deemed appropriate for the education of the child, and the reasons why it is the least restrictive program setting appropriate for the education of the child.

2. Specify any tests, reports, or evaluation procedures on which the proposed educational placement is based.

3. State that the school reports, files, and records pertaining to the child shall be available to the parents, or their designee as indicated in writing, for inspection and copying at the actual cost of such copying.

4. Describe in detail the right to obtain a hearing if there are objections to the proposed action or nonaction, including a description of all of the rights regarding procedures at such a hearing. This notice should emphasize that the parent need not accept the proposed decision to change or not change the status of the child when there is disagreement with the proposed alternative program.

5. Describe in detail the procedures the parent should use to appeal a hearing decision.

6. Explain that if the proposed action is rejected by the parent, the child will be temporarily continued in his present educational placement unless the present placement endangers the health or safety of the child or other children and/or substantially disrupts the educational programs of other children. In this instance the local education agency shall notify the parent of the interim change in writing, by certified mail in the primary language of the home and in English, and orally in the primary language of the home. This notice should specify:

    a. The manner in which the health and safety of the child or other children is endangered or the manner in which the educational program of other children is being disrupted.

b. The nature, duration, and location of the interim placement, which must not exceed 15 school days.

c. That the interim placement may be extended beyond 15 school days only upon the decision of a hearing officer and that in no case may it extend beyond the duration of the entire due process procedures.

d. The name of the person responsible for the interim placement and the date the interim placement will begin.

7. State that no parent of a child placed in a special program will be required to perform duties not required of any other parent whose child is enrolled in the public schools.

Periodic Review of Educational Placement

No later than 8 calendar months after a child's educational status has been changed and during each calendar year thereafter, so long as the child continues to receive special services, the local education agency should conduct a review of the child's program to evaluate its effectiveness in meeting the educational needs of the child. At least 5 days prior to each review, the parent should be notified in writing, in the primary language of the home and in English, and orally in the primary language of the home, that the review is scheduled. The notice should also indicate the following information:

1. The date, time, and place of the review.

2. An invitation to the parents to participate in the review.

3. A description of the procedures to be used in the review.

4. A statement that the parents will receive the findings and recommendations of the review team within 10 days after completion of the review .

5. A reiteration of the procedures and rights first encountered at the initial evaluation (Form 9, Review of Educational Placement).

The Right to an Impartial Hearing

A major element of due process is that, at some point, an opportunity is provided for the creation of a forum -- a hearing that will provide an objective review of the parent-school disagreement and utlimately produce an objective decision resolving the dispute. Regardless of the formal and informal steps leading to a hearing and the many procedural and process provisions that must be met in the hearing situation itself, the key concept is that the final decision of the hearing officer will be as impartial as possible. In this text, the term hearing officer refers to the individual who when acting in that role is an official representative of the state commissioner of education. Hearings may be convened when:

1. The child is being considered for evaluation and permission is not granted by the parents.
2. A change in the child's educational placement is planned by the state or local education agency or has been requested by the parent and there is disagreement over the recommendation.
3. A request for an extension of a temporary placement has been filed.

Prerequisites to the Hearing

Within 5 days of the request for a hearing, the local education agency will schedule a conference with the parent to review the proceedings, findings, and recommendations to date for the purpose of settling the controversy and if possible avoiding the hearing. If resolution is not achieved at the conference or if there is insufficient communication to convene the conference, the hearing will be scheduled. Prior to the hearing the following steps should occur:

1. Prior notice of the intent to convene a hearing should be provided to the parents (Form 5, Notice of the Filing of a Request for a Hearing).
2. The parent or his designee as established in writing shall be allowed access to school reports, files, and records pertaining to the child and shall be allowed to obtain copies at the actual cost of copying.
3. Within 10 school days of receipt of a request for a hearing, a trained impartial hearing officer shall be appointed by the state education agency to preside at the hearing.
4. Within 5 school days of the appointment of the hearing officer and at least 20 days prior to the hearing, the state education agency shall provide notice of the time and place of the hearing to the hearing officer, to the parent, and to the officials of the local education agency. The hearing shall be held at a time and place reasonably convenient to the parent, but shall not occur more than 30 school days after the appointment of the hearing officer. Notice to the parties involved shall be in writing in the primary language of the home and in English and shall be sent via certified mail.

5. A parent should be informed of the right to require the attendance at the hearing of any officer, employee, or agent of the local or state education agency who may have evidence or testimony relevant to the needs, abilities, proposed programs, or status of the child.

6. The child shall remain in his current educational placement until the hearing officer enters a decision following the hearing, except in an emergency situation when the health and safety of the child or other children would be endangered or when the child's presence substantially disrupts the educational programs for other children as previously described (p. 26).

Procedures at the Hearing

The following are guidelines for conducting the hearing:

1. The hearing officer shall preside at the hearing and shall conduct the proceedings in a fair and impartial manner so that all parties involved in the hearing shall have an opportunity and be encouraged to present their evidence and testimony.

2. The parent and the local education agency may bring representatives including legal counsel, agency representatives, or others to the hearing. Each shall have the right to a full and complete listing of persons the other party will have at the hearing.

3. The hearing shall be open to the public unless the parent requests a closed hearing.

4. The parent and the local education agency, or their respective representatives, shall have the right to present evidence and testimony.

5. The parent and the local education agency, or their respective representatives, shall have the opportunity to confront and question all witnesses at the hearing.

6. If the child is over the age of majority he or she shall have all rights of the parent, including the right to exclude the parent(s).

7. If the child has not reached the age of majority, the parents shall have the right to determine if the child shall attend the hearing, except upon a finding by the hearing officer that attendance of the child would be harmful to the child's welfare. The child may then be excluded from all or part of the hearing.

8. The burden of proof as to the adequacy and appropriateness of the proposed course of action shall be upon the local education agency. In the case of a placement question, the local education agency must demonstrate why less restrictive placement alternatives could not adequately and appropriately serve the child's educational needs.

9. A tape recording or other verbatim record of the hearing should be made. Such record shall remain under the control of the state education agency. The parent and the local education agency shall have the right to this record on request.

10. At all stages of the hearing, interpretation for the deaf and interpreters in the primary language of the home shall be provided, when necessary, at public expense.

Decision of the Hearing Officer

Within 10 school days after the hearing is held, the hearing officer shall issue a decision in accord with the following:

1. The decision shall be in writing in the primary language of the home and in English and shall be sent by certified mail to the parent, the local education agency, and the state education agency.

2. The decision of the hearing officer shall be based solely on evidence and testimony presented at the hearing.

3. The written decision shall include findings of fact, conclusions, and reasons for them. If the decision is to disapprove a proposed educational plan, it shall state what would be an adequate and appropriate educational plan for the child. If the decision is to approve a proposed educational plan, it shall indicate why less restrictive placement alternatives could not adequately and appropriately serve the child's educational needs.

4. The decision shall include a statement of the procedures necessary to obtain an appeal of the hearing officer's decision, including a list of those agencies from which the parent may obtain legal assistance.

5. The decision shall be binding on the parent and on the local education agency, officers, employees, and agents. If the case is appealed, the decision of the hearing officer shall be adhered to pending outcome of the appeal, unless specific waiver is obtained.

Record of the Hearing

A summary of the proceedings at the hearing shall be made. Included will be any material or statements specifically requested by any of the parties to appear in the record. The summary shall be made available to the parties to the hearing. On request of the parent or the local education agency, a copy of the tape recording or other verbatim record of the hearing shall be transcribed and provided.

Hearing Decision Appeal Procedures

Within 10 days after a decision has been made an appeal of the decision may be initiated by the parent or by the local education agency to the appropriate administrative official (e.g., the state superintendent of schools or court, as indicated by the state administrative procedures act).

ADDITIONAL RESOURCES

Hearing on Due Process
Video Tape
Council for Exceptional Children
1920 Association Dr.
Reston, VA 22091
1-800-336-3728
(tape can be copied)

Rucker-Gable Educational Programming Scale
Rucker Gable Associates
Rockridge, Box 201C
Storrs, CT 06268

APPENDIX A

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APPENDIX B

The number of identified children with handicaps is steadily growing. Parents of these children continue to seek information on the problems they and their children face. In answer to the demand, the Special Education Resource Center Library has assembled this bibliography consisting of books and periodicals we own.

BOOKS AND PERIODICALS LISTED HERE DO NOT IN ANY WAY REPRESENT ENDORSEMENT BY THE SPECIAL EDUCATION RESOURCE CENTER.

We hope we can be of further service to you, and welcome your use of the Center.

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PR 1009 Wing, Lorna. Autistic Children: A Guide for Parents and Professionals. New York: Brunner/Mazel, 1972. $6.95.

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PR 0163 Hart, Jane and Jones, Beverly. Where's Hannah?: A Handbook for Parents and Teachers of Children with Learning Disabilities. New York: Hart Publishing Company, 1968. $8.50.

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Early Years. Allen Raymond, Inc., P.O. Box 1223, Darien, Connecticut 06820. $7.00 per year.

Exceptional Children. Council for Exceptional Children, South Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202. $12.50 per year. Free to members of the Council for Exceptional Children.

Exceptional Parent. P.O. Box 101, Back Bay Annex, Boston, Massachusetts 02117. $12.00 per year.

Journal of Learning Disabilities. Professional Press, 5 North Wabash Avenue, Chicago, Illinois 60602. $10.00 per year.

Mental Retardation. American Association on Mental Deficiency, 49 Sheridan Avenue, Albany, New York 12210. $15.00 per year. Free to members of the American Association on Mental Deficiency.

Volta Review. Alexander Graham Bell Association for the Deaf, 3417 Volta Place N.W., Washington D.C. 20007. $15.00 per year.

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PR 0966 Dickinson, Rita M., Caring for the Gifted. North Quincy, Massachusetts: The Christopher Publishing House, 1970.

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PR 1193 Clarke, Louise, Can't Read, Can't Write, Can't Takl Too Good Either: How to Recognize and Overcome Dyslexia in Your Child. New York: Walker & Co., 1973.

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PR 1263 Miller, Julano, Helping Your LD Child at Home. San Rafael, California: Academic Therapy Publications, 1973.

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PR 1096 Rogovin, Anne, Learning by Doing: An Illustrated Handbook for Parents and Teachers of Children Who Learn Slowly. Johnstown, Pennsylvania: Mafex Associates, Inc., 1971.

PR 1138 Smith, David W., The Child with Down's Syndrome (Mongolism): Causes, Characteristics and Acceptance for Parents, Physicians and Persons Concerned with His Education and Care, by David W. Smith and Ann Asper Wilson. Philadelphia: W. B. Saunders Company, 1973.

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PR 1262 Katz, Lee et al, The Deaf Child in the Public Schools: A Handbook for Parents of Deaf Children. Danville, Illinois: The Interstate Printers & Publishers, Inc., 1974.

PR 1152 Van Riper, Charles, Your Child's Speech Problems. New York: Harper & Brothers, Publishers, 1961.

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FOR BROTHERS AND SISTERS

PR 1227 Lasker, Joe, He's My Brother. Chicago: Albert Whitman & Company, 1974.

PR 1238 Levine, Edna S., Lisa and Her Soundless World. New York: Human Sciences Press, 1973.

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Rioux, J. William, Students, Parents and School Records. Columbia, Maryland: National Committee for Citizens in Education, 1974.

Rondell, Florence, New Dimensions in Adoption. New York: Crown Publishers, 1974.

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APPENDIX C

This information was taken from CORRC Network Update #7 - 8/31/71.

The following is a list of agencies involved not only with due process but also with all legal matters relating to handicapped citizens. Information about any one of these agencies can be obtained by contacting the agency directly.

1. National Center for Law and the Handicapped, Inc.
   1235 North Eddy Street
   South Bend, Indiana 46617
   (219) 288-4751
   Newsletter: Newsline

2. State-Federal Information Clearinghouse for Exceptional Children
   1920 Association Drive
   Reston, Virginia
   (703) 620-3660 or 3404

3. Mental Retardation and the Law
   U.S. Department of HEW
   Office of the Assistant Secretary for Human Development
   President's Committee on Mental Retardation
   Washington, D.C. 20201
   (202) 245-7634

4. Mr. Reed Martin
   Project on Law and Behavior
   2437-A University Blvd.
   Houston, Texas 77005
   (713) 529-7691
   Newsletter: Law and Behavior

5. Children's Defense Fund
   1520 New Hampshire Ave., N.W.
   Washington, D.C. 20036
   (202) 483-1470

6. American Bar Association
   Commission on the Mentally Disabled
   1800 M Street, N.W.
   Washington, D.C. 20036
   (202) 331-2240
   Newsletter: Mental Disability Law Reporter
   The Reporter will be a continually updated compendium of legal materials for lawyers, administrators, professionals and advocates in the area of mental disabilities and a total practice tool for lawyers involved in mental disability litigation.

The 40-50 page Reporter can be ordered from the above address. The subscription price is $35; $25 for Legal Services Projects.

7. Maryland State Bar Association
905 Keeper Building
Redwood and Calvert Streets
Baltimore, Maryland 21202
(301) 685-7678
Publication: Guide to Educational Hearing Procedures for Handicapped Children.
This booklet is a compilation of the state's procedures and requirements connected with placement hearings for handicapped students.

APPENDIX D

APPENDIX D

EVALUATION FORM

Please rate each section by circling the number which best represents your assessment. Write suggestions or ideas for improvement in the appropriate section.

1	2	3	4	5
Eliminate		Needs Improvement		Excellent

	PRESENTATIONS	SMALL GROUP ACTIVITIES	BOOK OF READINGS
PHASE I	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
PHASE II	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
PHASE III	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
PHASE IV	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
PHASE V	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5

OVERALL, HOW WOULD YOU RATE THE WORKSHOP? 1 2 3 4 5

HOW WOULD YOU RATE THE CONTENT IN GENERAL? 1 2 3 4 5